S
328.3
L13ria
1996
C. 1
Erickson, Connie F
To promote a
better
understanding

To Promote a Better Understanding: The 1995-96 Activities of the Committee on Indian Affairs

A Report to the 55th Legislature
of the
Committee on Indian Affairs

December 1996

STATE DOCUMENTS COLLECTION
FEB 21 1997
MONTANA STATE LIBRARY
1515 E. 6th AVE.
HELENA, MONTANA 59620

Prepared by
Montana Legislative Services Division
State Capitol, Room 138
Helena, Montana 59620

PLEASE RETURN

Legislative Services Division

(406) 444-3064
FAX: (406) 444-3036

MONTANA STATE LIBRARY
3 0864 0009 9207 6

TO PROMOTE A BETTER UNDERSTANDING: THE 1995-96 ACTIVITIES OF THE COMMITTEE ON INDIAN AFFAIRS

A Report to the 55th Legislature
of the Committee on Indian Affairs

December 1996

Prepared by Connie Erickson
Legislative Research Analyst
Office of Research and Policy Analysis
Montana Legislative Services Division

COMMITTEE ON INDIAN AFFAIRS
MEMBERSHIP

Senator Linda Nelson, Presiding Officer
Representative Jay Stovall, Vice Presiding Officer

Senator Clarence A. "Casey" Emerson
Senator Ethel Harding
Senator Barry "Spook" Stang
Representative George Heavy Runner
Representative Joan Hurdle
Representative Bonnie Martinez

COMMITTEE STAFF

Connie Erickson, Legislative Research Analyst
Eddye McClure, Attorney
Lois A. O'Connor, Secretary

Published by:

Montana Legislative Council
Senator John "J.D." Lynch, Presiding Officer

Montana Legislative Services Division
Robert B. Person, Executive Director
David D. Bohyer, Director, Office of Research and Policy Analysis
Gregory J. Petesch, Director, Legal Services

TABLE OF CONTENTS

PART ONE--SENATE JOINT RESOLUTION NO. 11
PREFACE 1
CHAPTER ONE--THE MONTANA CONSTITUTION AND AMERICAN INDIANS 5
INTRODUCTION 5
CONSTITUTIONAL CONVENTION STUDY NO. 17 6
ARTICLE X, SECTION 1, SUBSECTION (2) 7
INTENT 8
SUMMARY 10
CHAPTER TWO--THE ROLE OF INDIAN STUDIES IN PUBLIC SCHOOLS IN MONTANA 13
INTRODUCTION 13
SCHOOL DISTRICTS 13
SCHOOLS 18
SUMMARY 24
CHAPTER THREE--THE ROLE OF INDIAN STUDIES IN HIGHER EDUCATION IN MONTANA 27
INTRODUCTION 27
COMMUNITY COLLEGES 27
DEMOGRAPHICS 28
COURSE OFFERINGS 28
FACULTY/STAFF TRAINING 29
TEXTBOOK SELECTION 29
MISCELLANEOUS 29
COLLEGES OF TECHNOLOGY 29
DEMOGRAPHICS 30
COURSE OFFERINGS 30
FACULTY/STAFF TRAINING 30
TEXTBOOK SELECTION 31
MISCELLANEOUS 31
PUBLIC COLLEGES AND UNIVERSITIES 31
DEMOGRAPHICS 32
FACULTY/STAFF TRAINING 32
TEXTBOOK SELECTION 32
COURSE OFFERINGS/GRADUATION REQUIREMENTS 32
NATIVE AMERICAN STUDIES PROGRAMS 33
MISCELLANEOUS 33
MUS TEACHER EDUCATION PROGRAMS 34
DEMOGRAPHICS 34
FACULTY/STAFF TRAINING 34
COURSE OFFERINGS/GRADUATION REQUIREMENTS 34
RECRUITMENT AND RETENTION OF INDIAN STUDENTS 35
JOB PLACEMENT 35
TEXTBOOK SELECTION 35

PRIVATE COLLEGES AND UNIVERSITIES 36
DEMOGRAPHICS 36
FACULTY/STAFF TRAINING 36
TEXTBOOK SELECTION 37
COURSE OFFERINGS/GRADUATION REQUIREMENTS 37
NATIVE AMERICAN STUDIES PROGRAMS 37
MISCELLANEOUS 37
PRIVATE INSTITUTION TEACHER EDUCATION PROGRAMS 38
DEMOGRAPHICS 38
FACULTY/STAFF TRAINING 38
COURSE OFFERINGS/GRADUATION REQUIREMENTS 38
RECRUITMENT AND RETENTION OF INDIAN STUDENTS 38
JOB PLACEMENT 38
TEXTBOOK SELECTION 39
SUMMARY 39
CHAPTER FOUR--THE ROLE OF INDIAN STUDIES IN MONTANA'S SCHOOL ACCREDITATION STANDARDS AND TEACHER CERTIFICATION STANDARDS 41
SCHOOL ACCREDITATION STANDARDS 41
TEACHER CERTIFICATION STANDARDS 43
SUMMARY 45
CHAPTER FIVE--PUBLIC HEARINGS 47
INTRODUCTION 47
PUBLIC SCHOOLS 47
PUBLIC SCHOOL PERSONNEL 48
TEACHER EDUCATION 49
HIGHER EDUCATION 49
FUNDING ISSUES 50
MISCELLANEOUS ISSUES 50
SUMMARY 51
CHAPTER SIX--COMMITTEE CONCLUSIONS 53
CHAPTER SEVEN--COMMITTEE DELIBERATIONS AND RECOMMENDATIONS 55
SEPTEMBER 13, 1996 55
INDIAN HISTORY AND CULTURE CLASSES 55
TEACHER EDUCATION 56
INDIAN STUDIES REQUIREMENTS FOR TEACHERS 57
OCTOBER 22, 1996 58
LCCIA.1 59
LCCIA.2 60
LCCIA.3 61
LCCIA.4 62
LCCIA.5 62
GENERAL REVISIONS 63
FINAL RECOMMENDATIONS 63

PART TWO--VISITS TO MONTANA INDIAN RESERVATIONS 65
PREFACE 67
CHAPTER ONE--CROW INDIAN RESERVATION 69
BACKGROUND 69
DIALOGUE WITH THE CROW TRIBE 71
TAXATION 71
107TH MERIDIAN SETTLEMENT 72
ALLOTMENT ACT OF 1920 73
GAMING 73
INDIAN HEALTH SERVICE 73
BUREAU OF INDIAN AFFAIRS 74
INSTITUTE FOR MICRO-BUSINESS AND TOURISM 74
SUMMARY 74
CHAPTER TWO--FORT PECK INDIAN RESERVATION 77
BACKGROUND 77
DIALOGUE WITH THE FORT PECK TRIBE 79
FETAL ALCOHOL SYNDROME 80
ENVIRONMENTAL ISSUES 80
CHILD SUPPORT ENFORCEMENT 81
LAW ENFORCEMENT ON THE RESERVATION 81
WELFARE REFORM 82
TAXATION 82
SUMMARY 82
APPENDIX A 83
APPENDIX B 105
APPENDIX C 115

PART ONE

SENATE JOINT RESOLUTION NO. 11

"The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity."

Article X, section 1, subsection (2)
Constitution of Montana

PREFACE

American Indians are the largest minority group in Montana. Indians comprise 6% of the state's general population, 10% of the K-8 public school population, and 7% of the public high school population. Between 1980 and 1990, American Indians accounted for 28% of the state's population growth. There are seven federally recognized Indian tribes in Montana. There is one state-recognized Indian tribe that is currently seeking federal recognition.

In recent years, Indian tribes have begun to exert tribal sovereignty in many areas, such as taxation, gambling, hunting and fishing rights, and natural resource regulation. Because reservations are populated by a mixture of Indians and non-Indians, these exertions of tribal sovereignty often result in conflict and tension on both sides. One key to resolving conflicts between disparate groups is education; the more people know about one another, the easier it is to resolve differences or at least to respect each other's position.

Montana has attempted to address this issue of education as far as its Indian people are concerned. In June 1972, the delegates to the Montana Constitutional Convention adopted Article X, section 1, subsection (2), for inclusion in the proposed new Constitution. The language reads:

> The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

With the adoption of that language, the State of Montana committed itself to the preservation of the cultural heritage of the state's first inhabitants.

Within 1 year of the adoption of the Constitution, the Montana Legislature passed the Indian studies law that required all teachers in public schools on or near an Indian reservation to receive instruction in American Indian studies. After April 1, 1979, all affected school districts could employ only those certified teachers who met the Indian studies requirement. A second piece of legislation passed at the same time encouraged public schools to include in their curricula courses on Indian history, culture, and contemporary affairs and encouraged teacher training programs to prepare teachers for teaching Indian children. The Indian studies law was met with a great deal of opposition and

was eventually amended in 1979 to allow local school districts to decide if they wanted their teachers to receive this instruction. (For a complete history of the Indian studies law, please refer to Appendix A.)

In 1995, the Montana Legislature adopted Senate Joint Resolution No. 11, introduced by Senator Vivian Brooke and cosponsored by the members of the Committee on Indian Affairs. The resolution requested the Committee on Indian Affairs to study:

(1) the degree to which Montana's public schools are in compliance with Article X, section 1, subsection (2), of the Montana Constitution;

(2) the role of American Indian studies in the overall curriculum of the Montana University System and other institutions of higher learning in the state, with special attention to the teacher education curriculum; and

(3) the level of knowledge of the general public about historical and contemporary American Indian issues.

The study resolution further directed the Committee to make recommendations on how to address any deficiencies that the Committee may find in the course of its study and to report those recommendations, along with the Committee's findings and conclusions, to the 55th Legislature.

With the assistance of the Commissioner of Higher Education, the Office of Public Instruction, the Montana Advisory Council on Indian Education, and the American Indian Higher Education Consortium, staff began the work of gathering and analyzing pertinent information through interviews, surveys, literature reviews, and public hearings. Staff wishes to acknowledge the assistance of the following people in the completion of this study:

Norma Bixby, Director of the Northern Cheyenne Tribal Education Department

Dori Nielson, Education Analyst, Office of Public Instruction

Bob Parsley, former Director of Indian Education, Office of Public Instruction

Ellen Swaney, Director of American Indian/Minority Achievement, Office of the Commissioner of Higher Education

Deborah Wetsit, Ed.D., formerly with the University of Montana-Missoula School of Education

CHAPTER ONE

THE MONTANA CONSTITUTION AND AMERICAN INDIANS

INTRODUCTION

At the call of Acting Governor Thomas F. Meagher, Montana held its first constitutional convention in 1866. The citizens, frustrated by the power of the federal government over territorial activities, were agitating for federal recognition. Having been a territory for only 2 years, however, statehood was out of the question, and the work of the convention had little impact. A second constitutional convention took place in 1884, resulting in a document that formed the basis of the Constitution adopted in 1889 when Montana became a state. The 1889 Constitution drew heavily from the constitutions of New York and Colorado. Many of the provisions were more statutory than constitutional in nature, as exemplified by the net metal mines tax. The result was a document that lacked flexibility; between 1890 and 1971, the Constitution was amended 37 times. By the late 1960s, questions were being raised about the Constitution's ability to meet the challenges of the mid-twentieth century.

In 1967, the Montana Legislature passed House Resolution No. 17 and Senate Resolution No. 22, asking the Legislative Council to study the Constitution to determine whether it was adequately serving the needs of Montana's citizens and to examine alternative methods for changing the Constitution. As a result of its study, the Council concluded that of the 262 sections of the 1889 Constitution, 124 were adequate as written, 53 sections should be revised, and 85 sections should be repealed.[1] In addition, the Council concluded that the then-current amendment process was inadequate to address the necessary changes. The Council recommended that the 1969 Legislature establish a Constitution Revision Commission to recommend changes to the Constitution and a method for effecting those changes.

The 1969 Legislature complied with the recommendations of the Council by passing Senate Bill No. 111 (Chapter 53, Laws of 1969) that established the Montana Constitution Revision Commission. The Commission was charged with determining whether the Constitution impaired effective state government;

comparing the Constitution with those of other states; and publishing a report with the Commission's findings, recommendations, drafts of proposals for change, and recommendations for implementing those changes. At the same time, the Legislature passed Senate Bill No. 297 (Chapter 65, Laws of 1969) that referred the call for a constitutional convention to the voters at the 1970 general election. Referendum No. 67 passed with 65% of the vote. At the next legislative session, House Bill No. 168 (Chapter 296, Laws of 1971) authorized the election of convention delegates, established a constitutional convention commission to prepare for and assist the convention, and appropriated money for the operation of the commission and the convention itself.

The regular session of the Convention began on January 17, 1972, and concluded on March 24, 1972. The new Constitution was referred to the people at an election on June 6, 1972. After a heated campaign, the Constitution was approved by a scant 50.6% of the people voting on the question.

CONSTITUTIONAL CONVENTION STUDY NO. 17

The Constitutional Convention Commission, in preparation for the actual convention, prepared a series of background studies on each of the issues that the convention delegates would address. In Study No. 17, the issue was education. In the section on equal educational opportunity, the study discussed Indian education, particularly the protection of the cultural integrity of Indians. The study concluded that states have the obligation to:

(1) provide equal educational opportunities for Indian children through adequate financial support;

(2) eliminate all forms of discrimination against Indians in education; and

(3) allow for the existence of schools that meet the indigenous cultural needs of Indians by fostering educational diversity and community control.[2]

The study went on to state that these principles could be embodied in a model constitutional provision on equal educational opportunity and Indian education.[3]

ARTICLE X, SECTION 1, SUBSECTION (2)

On March 10, 1972, the Constitutional Convention delegates began debate on the Education and Public Lands Committee Proposal No. 10. The first part of section 1 of the proposal read as follows:

> Section 1. EDUCATIONAL GOALS AND DUTIES OF THE STATE. It shall be the goal of the people of Montana to provide for the establishment of a system of education which will develop the full educational potential of each person. Equality of educational opportunity shall be guaranteed to each person of the state.

Shortly after the debate began, Delegate Dorothy Eck offered an amendment to section 1 of the proposal. The amendment was the inclusion of a new paragraph that read: "The state recognizes the distinct and unique cultural heritage of the American Indians and is committed to the preservation of their cultural integrity." The idea for the amendment came from two young Indian students from the Fort Peck Reservation who appeared before the Bill of Rights Committee asking for some assurance that they would have the opportunity to study their own culture and language and develop a sense of pride in that culture and that all Montana students would recognize the importance and the dignity of American Indians in the life of Montana.[4] Because education seemed to be the students' greatest concern, the Bill of Rights Committee felt that an amendment to the education article was more appropriate.

Delegate Gene Harbaugh offered an amendment to Delegate Eck's amendment. After the phrase "and is committed", he inserted the phrase "in its educational goals". According to his recorded statement, it appears Delegate Harbaugh's intent was to ensure that this commitment to the preservation of Indian cultural integrity was part and parcel of the educational goals already mentioned in section 1 of the proposal.[5] His amendment was adopted, and then Delegate Eck's amendment was adopted with one dissenting vote.

INTENT

What was the intent of the Constitutional Convention delegates in including this language regarding American Indians in the education article? This was not an easy question to answer. However, a review of the verbatim transcripts of the debate on March 10, 1972, revealed two issues that repeatedly surfaced in the debate: the need to acknowledge American Indians in the Constitution in some manner and the need to address the problems that existed between the Indian and non-Indian populations of the state. The need for knowledge and understanding was expressed by many of the delegates participating in the debate, and knowledge and understanding could come only through education. It is interesting to note that Delegate Harbaugh, in offering his amendment, stated the need to tie the preservation of Indian cultural integrity to the goals for education stated in section 1 of the proposal. If preservation of cultural integrity was indeed to be a goal of education, then it would be logical to believe that the delegates intended that steps would be taken to achieve that goal. It is interesting to note that the stated goal of the development of "the full educational potential of each person" generated a great deal of debate because the delegates were concerned about how that goal would be achieved.[6]

In order to assist the Committee on Indian Affairs in determining the intent of the Constitutional Convention delegates, staff sent questionnaires to five delegates who actively participated in the debate surrounding the proposal to preserve American Indian cultural integrity. Of the five surveyed, four responded: Dorothy Eck, Chet Blaylock, Raymond Champoux, and Bob Campbell. (The fifth delegate, Gene Harbaugh, had moved and the forwarding address order had expired.) Following are the questions that were asked of the delegates, with their paraphrased responses.

1. ***As a Constitutional Convention delegate, what was your intent in including this provision for the preservation of American Indian culture in the Montana Constitution (e.g. to simply recognize American Indians in the Constitution or to implement a specific policy or program)?***

   Generally, the responses indicated that the purpose of the provision was to recognize and express in the Constitution the value of the American Indian culture and traditions and to encourage the Legislature and public

schools to develop appropriate policies and programs to keep that culture alive. Among some of the programs mentioned were special classes on Indian culture and history in public schools; special classes to instruct teachers in Indian history and culture; and special educational events concerning Indians. However, there was no discussion of a specific program that was to be implemented.

2. ***Why was this provision put into the education article rather than in another part of the Constitution?***

Originally, the provision was considered by the Bill of Rights Committee. The members of that committee, however, believed that it more appropriately belonged in the education article--that it was in the education of the youth that Montana would begin to make differences in race relations. It was also believed that implementation of the provision would most likely be effected through education.

3. ***If your intent was to implement a specific policy or program, was this policy or program intended to preserve American Indian culture through the education of Indians about their culture or to preserve American Indian culture through the education of all Montanans, Indians and non-Indians alike?***

There was unanimous agreement that the intent was to educate Indians and non-Indians alike, both students and the general public, especially teachers and administrators. One respondent also stated that he specifically envisioned Indian culture, history, and language being taught in the schools located on or near reservations.

4. ***If the intent was to educate, how did you envision this intent being implemented (e.g. by the Legislature through statute; by the Board of Public Education through administrative rules or accreditation standards; by local school districts; or by other means)?***

The general consensus was that the Legislature would be involved in implementation, as would other agencies, such as the Office of Public

Instruction, the Board of Public Education and the Governor's Office. However, there was no agreement on whether the Legislature would mandate programs or simply encourage educational agencies to develop programs. Mention was made of the use of incentives and the expectation that cultural education and sensitivity toward Indians would be part and parcel of the state's educational system.

SUMMARY

Twenty-three years have passed since the Constitutional Convention delegates debated Article X, section 1, subsection (2). Attempting to determine intent after so long a period was a difficult task. However, based on a review of the Constitutional Convention Commission's background study on education, a review of the verbatim transcripts of the Convention itself, and the responses of the delegates surveyed by the staff, it can be concluded that the Constitutional Convention delegates intended Article X, section 1, subsection (2), to be more than mere recognition of American Indians in the new Constitution. Rather, the delegates intended that the preservation of American Indian cultural integrity would be effected through educational programs available to both Indians and non-Indians. Responsibility for the implementation of this provision was left unclear. However, the delegates did envision a role for the Legislature either by mandating programs or by encouraging educational agencies to develop appropriate programs.

ENDNOTES

1. Montana Legislative Council, Montana Constitutional Convention Occasional Papers, Report No. 6: Legislative Council Report on the Montana Constitution (Helena, Montana: Montana Constitutional Convention Commission, October 1968), p. 89.

2. Montana Constitutional Convention Commission, Constitutional Convention Study No. 17, Education, report prepared by Bruce Sievers, Helena, 1972, p. 73.

3. Ibid.

4. Montana Constitutional Convention Verbatim Transcript Volume VI, March 10, 1972, p. 1950.

5. Ibid., p. 1955.

6. Ibid., pp. 1957-1960.

CHAPTER TWO

THE ROLE OF INDIAN STUDIES IN PUBLIC SCHOOLS IN MONTANA

INTRODUCTION

One of the directives of Senate Joint Resolution No. 11 was to study the degree to which Montana's public schools are in compliance with the constitutional provision calling for the preservation of the cultural integrity of American Indians. Because the current Indian studies law is applicable only at the discretion of the local board of trustees and because curriculum is also the prerogative of the local board, provided the curriculum meets the state accreditation standards, there was very little information collected at a central location for the Committee on Indian Affairs to use to determine compliance. In order to gather the necessary information, staff devised a survey to be sent to a random sample of public schools in Montana, with a corresponding survey to be sent to the school district in which the selected schools were located. The survey was devised with the assistance of the Office of Public Instruction. The purpose of the survey was to find out what schools and districts were doing in the area of Indian studies both for students and for teachers. Every attempt was made to ensure that individual schools and districts would not be identified by name and thus singled out for praise or criticism. Some of the questions did not particularly pertain to the SJR 11 study. These questions were asked as a courtesy to the Office of Public Instruction (OPI) as a way for OPI to evaluate some of its programs and services. Survey responses will be shared with OPI.

SCHOOL DISTRICTS

The school district survey was sent to 153 school districts across the state. Of the 153 surveys mailed, 121 were returned for a return rate of 79%. The questions covered such areas as pupil-instruction-related (PIR) days, textbook selection, teacher recruitment, use of noncertified personnel, the Indian studies law, and assessment of language needs. The following is a summary of the survey responses to specific questions.

(1) Are the certified personnel in your school district required to take instruction in American Indian studies in order to be employed?

( ) Yes
( ) No

This question pertained to the Indian studies law (20-4-211 through 20-4-214, MCA). Application of the law is at the discretion of the local board of trustees. Of the 119 districts that responded to this question, only 7% answered "yes". It is obvious that local trustees have overwhelmingly opted not to implement the Indian studies law in their districts.

(2) Has your school district provided or does it provide instruction in American Indian studies during PIR days?

( ) Yes
( ) No

A PIR day is a pupil-instruction-related day of activities devoted to improving the quality of instruction. A PIR day may be used for inservice training, attending state education meetings, or conducting parent conferences. A school district may hold up to 7 PIR days during a school year, 3 of which must be devoted to instructional and professional development meetings or other appropriate inservice training (20-1-304, MCA). For many years, members of the Indian education community have encouraged school districts to devote at least 1 PIR day to instruction in Indian studies or Indian cultural awareness. Of the 120 districts that responded to this question, only 22% answered "yes".

(3) Does your school district offer or plan to offer inservice training for certified personnel in such areas as learning styles, cultural sensitivity, or English as a second language?

Each of these areas--learning styles, cultural sensitivity, and English as a second language--are of great concern to Indian parents because the vast majority of the teachers of Indian children are non-Indians who may not understand the cultural differences in learning styles or who may interpret language difficulties as mental deficiencies. Training in these areas is important to the Indian

community. Of the 119 districts that responded to this question, 44% responded "Yes".

(4) If you answered "yes" to Question 3, what training is provided?

This was an open-ended question that allowed a district to discuss what types of inservice training the district provided its teachers. By far the most popular type of training was on learning styles. A number of districts listed training in issues such as Indian language and culture, critical analysis of Indian curriculum materials, and curriculum development. Many districts listed tribal colleges and tribal education departments as resources in the development of inservice programs.

(5) If your district is located on or near an Indian reservation, does the orientation for new teachers include information about the Indian tribe or tribes that live on that reservation?

( ) Yes
( ) No

Indian tribes are very concerned that teachers come to the reservations knowing nothing about the children they are going to teach. They would like these teachers to have at least some basic information and fundamental understanding of the culture. Of the 81 districts that responded to this question, 27% answered "yes".

(6) Does your school district recruit Indian personnel for positions within the district by advertising with:

( ) Native American Studies programs at colleges or universities
( ) Tribal colleges
( ) Tribal governments
( ) American Indian publications
( ) Other

Only 51 districts responded to this question. More than one answer was possible. The greatest number of responses was in the "other" category. Far behind were tribal colleges, Native American Studies programs, American Indian publications, and tribal governments. Of the "other" responses, college and university placement offices were listed most often. Newspapers and the Job Service also received numerous mentions. A few districts specifically listed Indian resources, such as tribal organizations, Indian community buildings, and Indian publications.

(7) Has your school district used the emergency authorization procedure to hire noncertified Indians to teach Indian language and culture in your schools?

( ) Yes
( ) No

(8) Does your school district anticipate using the new Class 7 certificate to hire noncertified Indians to teach Indian language and culture in your schools?

( ) Yes
( ) No

Only 7% of the 116 districts that responded to Question 7 have used the emergency authorization. However, the "yes" responses increased to 12% when respondents were asked about the Class 7 certificate.

(9) Does your school district assess the language needs of Indian children?

( ) Yes
( ) No

Of the 107 districts that responded to this question, 34% answered "yes". Because many Indian children come to school from homes where English is not the predominant language, Indian parents and educators believe that their language needs deserve to be assessed in a manner similar to non-Indian students who come from non-English speaking backgrounds.

(10) If you answered "yes" to Question 9, what programs/approaches does your school district use to meet the language needs of Indian students?

This open-ended question elicited a variety of responses from school districts. Most of the school districts use Title I programs to assist Indian children with their language needs.* Other districts use bilingual programs with native languages. Other responses included standardized tests and specialized language programs.

(11) In selecting American history and social studies textbooks, does your school district give consideration to the portrayal of American Indians as one of its selection criteria?

( ) Yes
( ) No

The Indian community has always been critical of the way Indians have historically been portrayed in textbooks, films, and other media. In more recent times, a concerted effort has been made to correct the stereotypical portrayal. However, the Indian community would like to see school districts make a concerned effort to choose textbooks that accurately reflect the history and culture of American Indians and that offer role models to Indian children using the textbooks. Of the 109 districts that responded to this question, 76% responded "yes" that they include the portrayal of Indians as a selection criteria for history and social studies textbooks.

(12) If resources were available, would your district offer American Indian studies courses or classes?

( ) Yes
( ) No

---

* Title I programs refer to programs authorized by the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994. Title I was designed to provide compensatory education programs for economically and educationally disadvantaged children to improve their learning performances.

Almost 67% of the 96 districts that responded to this question answered "yes". The Office of Public Instruction has developed numerous curriculum materials for use by schools and has publicized the availability of those materials to all school districts. Whether school districts are using those materials or if they have found those materials unsuitable is a matter for conjecture.

(13) What programs, activities, special events, etc., does your school district offer to enhance the relationship between Indian and non-Indian students and to educate all students about American Indians?

This question was an opportunity for school districts to "toot their own horn" so to speak. Unfortunately, not every district took that opportunity. In fact, of the 121 districts that returned the surveys, 54 either did not answer the question or indicated that the question did not apply to the district. Of those that did answer, eight stated that they did little or nothing while four wrote that they had no Indian students. Of the remaining responses, the majority celebrated Native American Day or Native American Week with a variety of activities from guest speakers to building tipis. Some districts reported that their students participated in special tribal ceremonies. Others organized field trips to tribal museums and tribal offices. One off-reservation district has arranged an exchange with students from an on-reservation district.

SCHOOLS

The school survey was sent to 363 schools across the state. Of the 363 surveys sent, 283 were returned for a return rate of 77%. The questions covered such areas as Indian studies courses or units of study, textbooks, resources, and special activities. The following is a summary of the survey responses to specific questions.

(1) Does your school offer separate classes or courses in American Indian studies at any grade level?

( ) Yes
( ) No

Of the 278 schools that responded to this question, 22% responded "yes". Those schools that responded "yes" were then asked to complete Questions 2 through 6.

(2) What type of classes or courses does your school offer?

- ***() Indian language***
- ***() Indian history***
- ***() Indian culture***
- ***() Other***

Indian culture, Indian history, and Indian language were most often taught in these separate classes. Some of the "other" responses included Indian crafts, anthropology, and tribal government.

(3) At what grade level are these classes or courses offered?

The courses were fairly evenly spread across grade levels.

(4) For how long are these classes or courses offered?

- ***() entire year***
- ***() single semester***
- ***() single quarter***
- ***() single week***
- ***() single day***
- ***() other***

Most of the courses were offered for an entire year. Semester courses were also popular as were month-long courses. In the lower grades, the courses were 1 to 2 weeks in length.

(5) Are these courses an integral part of your curriculum or are they an optional offering?

( ) ***curriculum***

( ) ***optional offering***

Sixty-one percent of the 61 schools responding said that the courses are part of their curriculum and not just a course that is offered when enough students are interested.

(6) What resources do you use to develop the course curriculum?

( ) ***tribal members***

( ) ***tribal education departments***

( ) ***tribal colleges***

( ) ***Office of Public Instruction***

( ) ***Commissioner of Higher Education***

( ) ***teachers/staff***

( ) ***published curriculum***

( ) ***other***

Of the 61 schools that responded to this question, 49 used their own teachers in developing the course curriculum. However, almost one-half of the schools also worked with tribal resources.

(7) If you are an elementary school, do you offer special programs or activities to educate all students about American Indians?

( ) ***Yes***

( ) ***No***

This question was included for those elementary schools that may not have offered separate Indian studies classes but did offer special programs or activities for their students. Unfortunately, the question was poorly placed in the survey so that many schools that might have answered the question did not. However, of the 82 schools that did respond, 78% answered "yes".

(8) If you answered "no" to Question No. 1, what were the reasons?

( ) ***lack of money***

( ) ***lack of curriculum resources***

( ) ***lack of interest***

( ) ***other***

Lack of money, lack of resources, and lack of interest all garnered about the same number of responses. However, most responses came in the "other" category. Most schools stated that Indian studies was incorporated into other curriculum areas, primarily history and social studies. Other reasons included lack of time, lack of Indian students, lack of interest, lack of personnel, and lack of a mandate.

(9) Does your school offer any courses that include a unit on American Indians?

( ) ***Yes***

( ) ***No***

An overwhelming 98% of the 276 schools that responded to this question answered "yes". Based on the comments written on the surveys next to this question and on answers to Question 18, many schools incorporated Indian studies into history and social studies.

(10) Are you aware of the existence of the American Indian Law-Related Education developed by the Office of Public Instruction?

( ) ***Yes***

( ) ***No***

(11) Does your school use any of the American Indian Law-Related Education materials?

( ) ***Yes***

( ) ***No***

The Office of Public Instruction has collected and developed numerous materials for use by elementary and secondary schools that can be used to develop Indian studies courses or units of study. The OPI has attempted to notify schools and districts of the existence of these materials. A little over half (55%) of the schools indicated that they knew of these materials. However, only about one-quarter of the schools actually used the materials.

(12) If you are a middle school, a junior high school, or a high school, are you aware of the existence of the "Native Voices" film library developed by KUSM Public Television?

( ) Yes
( ) No

(13) Does your school use any of the "Native Voices" films?

( ) Yes
( ) No

KUSM Public Television at Montana State University-Bozeman has developed a library consisting of seven films that explore different aspects of Indian history, culture, and art. The films are advertised as being suitable resources for Indian studies. Unfortunately, only about 25% of the schools that responded knew about these films, and only about 11% were using the films.

(14) Does your school use other Indian resource materials?

( ) Yes
( ) No

(15) If you answered "yes" to Question No. 14, what materials do you use?

The purpose of these two questions was to elicit information about what resources schools were using in teaching about Montana's Indians. The responses were numerous and varied. Schools listed individual titles of books and videos, OPI-developed curriculum materials, community resources, teacher-

developed materials, tribal materials, Montana Historical Society materials, Indian parents, and teacher inservice workshops.

(16) If available, would you use curriculum materials relating to American Indian studies?

( ) Yes
( ) No

Ninety-five percent of the 260 schools responding to this question answered "yes".

(17) What books related to American Indians are used in your courses? e.g. American history, literature, or social studies?

The purpose of this question was to find out the titles of the books currently being used by schools in teaching about Indians. Among the titles that were repeatedly listed were Montana history books, National Geographic Society books, books written by Kenneth Thomasma, and books about specific Indian tribes. Most of the books were history and social studies books, although some fiction and literature titles were also listed.

(18) What other programs, activities, special events, etc., does your school offer to enhance the relationship between Indian and non-Indian students and to educate all students about American Indians?

The purpose of this question was to give schools the opportunity to talk about those special programs and activities that they offer. Almost one-third of the schools chose not to respond to this question, while slightly over one-fourth of the schools responded with "none". As with the responses to a similar question on the school district survey, the majority of the schools engage in some commemoration of Native American Day or Native American Week. Speakers, powwows, musical events, field trips, Indian clubs, community dinners, special tribal ceremonies, pen pals, and athletic events were all listed by the schools.

(19) What programs, activities, special events, etc., does your community offer to enhance the relationship between Indians and non-Indians and to educate all persons about American Indians?

Some schools may not offer anything in the way of special programs or activities because their communities do so. The purpose of this question was to allow schools to discuss those community activities in which their students could participate. Tribal powwows, museum programs, college and university activities, and community celebrations were among some of the activities that were listed.

SUMMARY

For the most part, schools are attempting to educate their students about the role of Indians in the history of Montana and the nation through the integration of Indian history into the regular history and social studies curricula. Schools are also offering special programs or activities that highlight Indian history and culture. Some schools are teaching Indian languages and Indian culture to their students. When asked if they would use curriculum materials relating to Indian studies if the materials were available, schools overwhelmingly responded yes. At the same time, however, almost three-fourths of the schools indicated that they were not using the American Indian Law-Related Education materials developed by OPI, even though over one-half of the schools knew of the existence of the materials.

The Indian community has long decried the lack of Indian teachers and the lack of non-Indian teachers who understand the cultural background of their Indian students and how that background affects the learning process. Although Indian students make up about 10% of the K-12 population in Montana, Indian teachers account for less than 3% of the total number of teachers. Yet, very few school districts actively recruit Indian personnel, and most school districts are not requiring any specific training in Indian studies for their teachers and administrators and are not using PIR days to provide such instruction.

It was interesting to note that a number of surveys, both district and school, either marked "not applicable" on many of the questions or wrote that the question or survey did not apply to them because they had few, if any, Indian students in their district or school. It has been the position of the Committee

from the beginning of this study that the constitutional provision applies to all schools, not just those with a significant Indian population. It may be just a matter of educating school districts about their constitutional responsibility and hoping that they will take this responsibility seriously by introducing Indian studies into their curricula.

CHAPTER THREE

THE ROLE OF INDIAN STUDIES IN HIGHER EDUCATION IN MONTANA

INTRODUCTION

In March and April of 1996, the Committee on Indian Affairs surveyed the institutions of higher education, both public and private, in Montana to gather information on the role of Indian studies* in the overall curriculum, with special attention directed to the teacher education curriculum. Questions were asked regarding the number of Indian students, faculty, and staff at each institution; the courses in Indian studies that were offered; the training that was provided to faculty and staff regarding Indian culture and issues; the selection of textbooks; and the recruitment and retention of Indian students, especially Indian students preparing to be teachers.

Thirty surveys were sent out to community colleges, private colleges and universities, units of the Montana University System, Native American Studies programs, and teacher education programs. Twenty-six surveys were returned. For those that were not returned, most of the information sought was available from other sources. The following is a summary and an analysis of the information gathered in the surveys and from other sources.

COMMUNITY COLLEGES

Community colleges in Montana are established through the organization of a community college district. Subject to certain requirements, the registered voters of any area of the state may request an election for the organization of a community college district. Once the district is organized, another election is held to select the trustees of the district who will have general

---

* In this report, the term "Indian studies" means Indian history, culture, government, contemporary issues, etc. The term "Native American Studies" means a formal program or department within an institution.

control and supervision of the community college. The community college districts are under the supervision and coordination of the Board of Regents. Community colleges are funded from a mixture of sources: tuition and fees, mill levies, state general fund appropriations, and income from sources outside of the community college district.

A community college grants associate degrees. The associate of arts (A.A.) and associate of science (A.S.) degrees are transfer degrees that are awarded without a major designation. These two degrees are designed for students who will transfer to a 4-year institution to complete a baccalaureate degree. The associate of applied science (A.A.S.) degree is an occupational degree that is awarded in a specific career occupational field. It is designed to prepare students for immediate entry into employment, but it may also be transferred to a baccalaureate degree program at a 4-year institution. A community college may also award certificates to students who seek to acquire an occupational skill in a specified training program that is shorter in duration and narrower in scope than a program leading to an A.A.S. degree. A community college may not award a baccalaureate degree.

There are three community colleges in Montana: Dawson Community College (DCC) in Glendive, Flathead Valley Community College (FVCC) in Kalispell, and Miles Community College (MCC) in Miles City. All three offer A.A., A.S., and A.A.S. degrees, but only two award certificates.

Demographics

In the fall of 1995, there were 2,763 students enrolled in the three community colleges. Of this number, 73, or 3%, were Indian. Only one college employed Indians in any capacity. The small number of Indian students most likely stems from the fact that every reservation in Montana has a tribal college that offers both transfer and occupational associate degrees as well as certificates. Therefore, the small number of Indian students enrolled in the community colleges is not surprising.

Course Offerings

Despite the small numbers of Indian students, all three community colleges offer Indian studies courses. These courses are found in anthropology, English, history, literature, psychology, and sociology. Dawson Community College offers 10 courses under the title of Native American Studies.

Faculty/Staff Training

None of the colleges mandates diversity training for employees. Employees are free to choose conferences aimed at diversity if they feel that the conferences address needs within their field. Flathead Valley Community College does employ a Native American/Multicultural Affairs Coordinator who tries to attend at least one conference per year specifically on Indian issues. This coordinator has also assisted instructors in incorporating Indian culture into their courses and has given presentations on specific topics, as requested.

Textbook Selection

The selection of textbooks is the prerogative of the instructors of the courses. None of the colleges offer any guidelines to instructors regarding textbook selection. Flathead Valley Community College has adopted a policy regarding institutional values that includes valuing diversity.

Miscellaneous

Dawson Community College has a United Badlands Indian Club whose purpose is to promote harmony and understanding between Indian and non-Indian students at DCC and to encourage Indian students to further their education.

Miles Community College has a Multicultural Club that was formed to orient new foreign students to the MCC campus and to share cultural experiences with the students and the community. The club now encourages all faculty and students who are interested in learning more about other cultures to join.

Flathead Valley Community College has a Pi-ta (Blackfeet for eagle) Club to provide support services to Indian students and to bridge the gap between Indian and non-Indian cultures. The club provides financial aid through scholarships and emergency loans and sponsors cultural activities for FVCC and the community.

COLLEGES OF TECHNOLOGY

The colleges of technology are the former vocational-technical centers that were originally governed under a joint arrangement between the local school district and the Office of Public Instruction. In July 1989, the Legislature

transferred governance to the Board of Regents. Under the restructuring of the Montana University System in 1994, the five vocational-technical centers were renamed "colleges of technology" and were affiliated with either the University of Montana or Montana State University.

The colleges of technology offer associate of applied science degrees and certificates. Prior to 1996, the A.A.S. degree offered at a college of technology was not transferrable to a 4-year institution. In recent months, however, the Board of Regents has authorized Montana Tech, Western Montana College, and Montana State University-Billings to offer a Bachelor of Applied Science degree. This will allow the A.A.S. credits earned at a college of technology to transfer to a baccalaureate degree.

The five colleges of technology in Montana are located in Billings, Butte, Great Falls, Helena, and Missoula.

Demographics

There were 2,147 students enrolled in four of the colleges of technology in the fall of 1995.* Of that number, 102, or 5%, were Indian. None of the colleges employs any Indian full-time faculty or staff.

Course Offerings

Three of the colleges offer no Indian studies courses. One college offers a single course in Native American culture. The Great Falls College of Technology offers two courses.

Faculty/Staff Training

All of the colleges reported that cultural diversity and sensitivity training was offered at their institutions. The Great Falls College of Technology specifically reported on a cultural diversity workshop presented by Ellen Swaney that included a panel of Indians who presented their experiences and perspectives on cultural values, motivation, and behavioral norms.

---

* The Missoula College of Technology reported its student enrollment figures with the student enrollment figures for the University of Montana. Because they were not separated out, the enrollment figures for this section on the colleges of technology are for only four of the colleges.

Textbook Selection

Because the vast majority of the courses offered at the colleges of technology are of a technical nature as opposed to general studies, the textbooks used in the courses are mainly technical. Therefore, the portrayal of Indians in those textbooks is not a relevant factor in their selection. However, one college reported that it could use some guidance in the selection of textbooks in which the portrayal of Indians would be a factor.

Miscellaneous

According to its survey responses, the Great Falls College of Technology is particularly sensitive to the needs of its Indian students. The college library subscribes to a number of Indian publications, including "Spirit Talk", "Indian Country Today", and "Native Peoples". Indian artwork can be found prominently displayed throughout the institution. In Heritage Hall, the main conference room, the flags of most of the Montana tribes are hung. Tutoring and counseling assistance are offered to Indian students, and the Native American Indian Club meets regularly on campus. The Great Falls College of Technology has the largest percentage of Indian students, 6%, of all of the colleges of technology. This reflects the fact that Cascade County has the highest percentage of Indians for a county that does not contain an Indian reservation.

PUBLIC COLLEGES AND UNIVERSITIES

There are six, public, postsecondary institutions in Montana that offer baccalaureate as well as advanced degrees. As a result of recent restructuring efforts, these six units are now affiliated with either the University of Montana-Missoula or Montana State University-Bozeman:

University of Montana-Missoula
- Western Montana College of the University of Montana
- Montana Tech of the University of Montana

Montana State University-Bozeman
- Montana State University-Billings
- Montana State University-Northern

The vast majority of students seeking an education beyond high school in Montana attend one of these units.

Demographics

In the fall of 1995, there were 31,410 students enrolled in these six units. Of that number, 904, or 3%, were Indian. The percentage of Indian students ranged from a high of 8% at MSU-Northern to 1% at Montana Tech. Of the 1,236 full-time, tenured faculty, only 11, or 1%, were Indian. However, these 11 were employed at only two of the six units. Of the 4,312 full-time employees, again only 1% were Indian.

Faculty/Staff Training

Very little training in cultural diversity is taking place at these institutions. If an individual faculty or staff member chooses to attend some training off-campus, the person is free to do so. At one institution, new faculty are provided with a one-half day training workshop at which cultural diversity is discussed. One institution reported that its Affirmative Action Office used to do annual workshops, but the office has been downsized in recent years because of a lack of funding.

Textbook Selection

Textbook selection is left to the discretion of the individual instructors. There are no institutional or departmental guidelines to assist instructors in selecting textbooks. However, instructors share their opinions and evaluations about textbooks with their colleagues on an informal basis. At those units with a Native American Studies (NAS) program, NAS staff talk informally with other department staff about textbooks and the portrayal of Indians.

Course Offerings/Graduation Requirements

All of the institutions offer courses in Indian studies. These courses are available through NAS programs as well as other academic disciplines, such as history, humanities, social sciences, anthropology, education, English, sociology, art, journalism, linguistics, liberal studies, and reading.

All of the institutions have established either general education or core curriculum requirements that all students must fulfill in order to graduate. Four of the institutions include NAS courses or other Indian studies courses

as an option in fulfilling these requirements. None of the institutions specifically requires a course on Indian studies in order to graduate.

Native American Studies Programs

Over the last 25 years, NAS programs have developed at four public institutions. Two of the programs are "stand alone" programs within a larger department or college. The remaining two programs are part of a department. All four institutions offer minors in NAS. One institution is currently proposing to offer a major in NAS.

The two "stand alone" programs offer more than just coursework. They offer academic and personal counseling, tutorial services, financial assistance, and other support resources for Indian students.

Unfortunately, only two of the NAS programs provided information on the number of students enrolled in NAS courses. However, in both of those programs, over 80% of the enrolled students were non-Indian. Of the seven full-time, tenured faculty in the NAS programs, five, or 71%, are Indian, while only 26% of the full-time employees of the NAS programs are Indian.

Miscellaneous

Montana State University-Billings has a Multicultural Students Services Office that assists students in making academic, cultural, and social adjustments to campus. The Intertribal Indian Club assists Indian students in adjusting to college life and helps foster pride in their cultural heritage. The Indian Science and Engineering Society provides scholarships, mentoring support, and leadership training to help Indian students prepare for successful careers in science and engineering.

Montana State University-Bozeman has a Center for Native American Studies whose purpose is to provide and advance quality education for and about the Indians of Montana, the region, and the nation. The Center has four major roles: teaching, research, public service, and student services. All of its programs are centered on these four roles. The American Indian Research Opportunities is an umbrella organization for several programs that focus on Indian students interested in science, technology, and mathematics careers. These programs all provide opportunities for Indian students to enter career fields in which they are significantly underrepresented.

MUS TEACHER EDUCATION PROGRAMS

With the exception of Montana Tech, all of the 4-year institutions in the Montana University System train teachers. At two of the institutions, Western Montana College and MSU-Northern, teacher education is the main thrust of the institution.

Demographics

In the fall of 1995, there were 2,103 students enrolled in the Montana University System teacher education programs. Of that number, 4% were Indian. The range is from 2% at MSU-Bozeman to 8% at MSU-Northern. Of the 163 tenured faculty in the Montana University System teacher education programs, only 4 were Indian. Of the 106 full-time employees of the teacher education programs (three units reporting), only 1 was Indian.

From 1991 through 1995, 2,789 students graduated from the teacher education programs of the Montana University System and were certified as teachers. Of that number, only 70 were Indian.

Faculty/Staff Training

Cultural diversity training varies from program to program. Some programs have focused on multiculturalism in general through the development of departmental action plans, curriculum review, and classroom experiences. Other programs have focused their efforts specifically on Indian issues, such as recruitment and retention of Indian students and performance on the National Teachers' Examination. Still other programs engage in faculty exchanges with Indian schools and partnerships with tribal colleges.

Course Offerings/Graduation Requirements

All of the teacher education programs offer either multicultural education or Indian studies courses. Three of the programs require students to take specific courses either in multicultural education or in NAS. Students seeking a reading specialist endorsement at one college are encouraged to take any NAS course that pertains to Indian literature.

One program requires all students in teacher education to complete an experience in a setting that serves persons who are of a culturally different

background from that of the student. This experience may occur in a school or a nonschool setting and must involve regular and personal interaction that provides a better understanding of the cultural group. This experience can be part of the student's professional field experience.

Recruitment and Retention of Indian Students

There are some activities related to the recruitment and retention of Indian students into the teacher education programs. Some institutions are working directly with tribal colleges to assist Indian students to make the transition from the tribal college to the 4-year college. Faculty travel to the tribal colleges to meet with students on such things as what courses to take that will transfer, sources of financial aid, what to expect at a 4-year institution, etc. One school has been involved in offering teacher education courses at a tribal college to make the transition easier for the Indian students. At one Montana University System unit, a faculty mentor is assigned to each Indian student.

Job Placement

There are no programs designed to specifically assist Indian students in finding teaching positions. Job listings, interview schedules, and career fairs are open to all students as are the services of the different placement offices. At one institution, the Multicultural Student Services Office regularly posts job openings that are directed toward minority students. The director also helps students apply for jobs and assists them with their applications and interviewing techniques. The director also sponsored a workshop for minority students that included school district officials talking about how minority applicants can obtain employment. Many Indian students do their student teaching in places where they would like to teach someday. This helps improve their chances for employment in that school district.

Textbook Selection

Textbook selection is generally the prerogative of the individual faculty member based upon guidelines that the faculty member believes are important. This varies with the focus of a particular class and of the instructor. Faculty members do discuss text and material selection that includes consideration of minority issues and authenticity. However, one institution offers guidelines that provide faculty with some key ideas to consider when evaluating textbooks and other materials. Some of these

ideas include stereotyping, misrepresentations of minority cultures, and the omission of minority cultures.

PRIVATE COLLEGES AND UNIVERSITIES

There are two private colleges and one private university in Montana that offer baccalaureate as well as advanced degrees. These are Carroll College in Helena, Rocky Mountain College in Billings, and the University of Great Falls in Great Falls (UGF). Both Carroll and UGF are affiliated with the Catholic Church. Rocky Mountain is affiliated with the United Church of Christ, the United Methodist Church, and the Presbyterian Church (U.S.A.). As private institutions, none of them receives direct public funding. All three are fully accredited institutions of higher learning.

All three institutions offer associate and baccalaureate degrees. The University of Great Falls also offers two graduate degrees. Teacher education programs play an important role at each institution. Only UGF, however, has an NAS program.

Demographics

There were 3,367 students enrolled in the three private colleges in the fall of 1995. Of that number, 178, or 5%, were Indian. This percentage is higher than the percentage of Indian students enrolled in the Montana University System. The percentage of Indian students at Carroll was only 1%, while Rocky Mountain and UGF reported 7% and 8%, respectively. There were no Indian full-time, tenured faculty at any of the three institutions, and only 1% of the full-time employees were Indian.

Faculty/Staff Training

Cultural diversity training at these institutions ranges from practically nothing to a fairly extensive program. One institution conducts annual workshops and festivals celebrating cultural diversity and includes a cultural diversity component during its semiannual faculty retreats. This same institution has also sought and received grants to allow faculty members to attend cultural diversity workshops and to sponsor a forum with faculty and students from Little Big Horn College. One of the goals of this same institution is to shift emphasis away from "artificial" activities, such as awareness weeks, and to

design a comprehensive program that weaves training in cultural diversity awareness into the more daily activities of faculty, staff, and students.

Textbook Selection

Textbook selection is left to the discretion of the individual faculty member. There are no institutional or departmental guidelines to assist faculty members in selecting textbooks. However, at one institution, cultural diversity training is a part of the spring and fall faculty retreats as a way to remind faculty members of the importance of considering how minorities are represented in their course content.

Course Offerings/Graduation Requirements

All three institutions offer courses in Indian studies. These courses are available through NAS programs as well as other academic disciplines, such as art, anthropology, applied management, English, history, integrated liberal studies, political science, religious studies, sociology, and theology.

All of the institutions have general academic requirements that all students must fulfill in order to graduate. All three include Indian studies courses as an option in fulfilling these requirements. None of the institutions specifically requires a course in Indian studies in order to graduate. However, one school requires all freshman students to take a communications course, with an emphasis on writing, that is an introduction to other cultures.

Native American Studies Programs

Only one private institution offers an NAS program. It is a "stand alone" program within a larger department and offers a minor in NAS. There are no full-time, tenured faculty who are Indian. However, two of the four instructors in the program are Indian.

Miscellaneous

Rocky Mountain College employs an American Indian Student Advisor who assists Indian students with the transition to college life and is available for academic as well as some personal counseling. The University of Great Falls has a United Tribes Club that helps promote cultural unity among Indian students and supports educational and cultural activities. Carroll College offers an annual scholarship to an enrolled member of a Montana Indian tribe. Rocky Mountain College offers five full-tuition scholarships to Indian students.

PRIVATE INSTITUTION TEACHER EDUCATION PROGRAMS

All three of the private institutions have teacher education programs. These programs form an integral part of each institution's role and scope.

Demographics

Because of confusing wording in the survey design, the data regarding the total number of students and the number of Indian students enrolled in the teacher education programs at the three private institutions is unavailable. However, over the last 5 years, two of the institutions have graduated 295 students who were certified as teachers. Of that number, 19, or 6%, were Indian.

Faculty/Staff Training

Each of the three institutions provided some form of training for its faculty and staff during this last year. This training included workshops, institutes, and special presentations by staff from the Office of Public Instruction.

Course Offerings/Graduation Requirements

One private institution offers coursework in multicultural education. Two institutions require students to take a course in multicultural education or in Indian studies.

Recruitment and Retention of Indian Students

There are few special efforts to recruit and retain Indian students beyond the normal recruitment and retention efforts that are made for all students. One institution has begun an outreach program in teacher education with Blackfeet Community College. Another institution has an American Indian Student Advisor who is available to assist all Indian students who may be experiencing problems.

Job Placement

Indian students can avail themselves of the same job placement services that are available to all students. No special assistance is given outside of the normal activities of a placement office.

Textbook Selection

There are no guidelines for the selection of textbooks. Although each institution is aware of the need to portray minorities accurately and to consider how minorities are represented in its courses, each institution basically relies on the professional judgment of the instructor in selecting texts. One institution stated that one of its hiring goals is to employ faculty who are sensitive to minority issues.

SUMMARY

In the fall of 1995, there were almost 40,000 students enrolled in the three community colleges, five colleges of technology, three private colleges, and six units of the Montana University System. Of that 40,000, only 1,300 were Indian. Indians account for about 6% of the total population of Montana and almost 10% of the school-age population in Montana. Yet, they represent only 3% of the enrolled students in the state's institutions of higher education.

The small number of Indians enrolled in the community colleges and the colleges of technology may be explained by the fact that these institutions offer similar programs and degrees as do the tribal colleges. It stands to reason that, if given a choice, Indian students would attend a tribal college on their reservation as opposed to a community or technical college far away from home and at greater expense. Still, the community colleges and colleges of technology enroll the same percentage of Indian students as the 4-year institutions.

Indian faculty and staff are even less visible than Indian students in Montana's institutions of higher education. Those that are employed tend to be concentrated in the NAS programs. There are some institutions that employ no Indians whatsoever.

In all of the public hearings that the Committee held during the interim, the one constant issue raised was the need for more Indian teachers and administrators. Yet, over the last 5 years, the percentage of Indian students certified as teachers has remained fairly static at 3%. Some of the public institutions actively recruit Indian students to their teacher education programs, mainly through outreach to tribal colleges. Private institutions are

less active. There are no programs designed specifically to assist Indian students in finding teaching positions upon graduation.

Cultural diversity training varies widely from nothing at all to fairly well-developed programs with a coordinator. Cultural diversity training is more apt to be found in the teacher education programs than in the institutions in general.

Textbook selection is the prerogative of the individual instructors. Only one institution offers guidelines to its faculty regarding the portrayal of minorities in textbooks.

The institutions of higher education, both public and private, are generally making an attempt to provide information to their students about Montana's Indian people. With the exception of three colleges of technology, every institution offers courses in Indian studies. These courses are found in a wide variety of academic disciplines. The 4-year institutions also have general education or core curriculum requirements that each student must fulfill in order to graduate. With the exception of two schools, NAS courses or other Indian studies courses may be taken to fulfill the requirements. The Indian studies courses, however, with a few exceptions, offered at the institutions of higher education are generic in that they do not focus on a single Indian tribe or culture. Yet, there are 10 Indian tribes in Montana, each with a distinct history and culture.

It appears that the teacher education programs are attempting to produce teachers who are knowledgeable about Indian history and current Indian issues and who are sensitive to the culture of their Indian students. Most of the teacher education programs offer courses in multicultural education or Indian studies. Six of the teacher education programs require either a multicultural education or an Indian studies course or some sort of cultural diversity experience for their elementary and secondary education students. How effective this all is, is up for speculation. The old saw "You can lead a horse to water, but you can't make the horse drink" is appropriate in this situation. However, it is significant that the teacher education programs have recognized this need and have attempted to address it. Whether the courses offered or required are sufficient to educate students about Indian history and culture is beyond the scope of the survey.

CHAPTER FOUR

THE ROLE OF INDIAN STUDIES IN MONTANA'S SCHOOL ACCREDITATION STANDARDS AND TEACHER CERTIFICATION STANDARDS

SCHOOL ACCREDITATION STANDARDS

The Board of Public Education is responsible for defining and specifying the basic instructional program for pupils in public schools. The program is defined in the accreditation standards set forth in the Administrative Rules of Montana. The current accreditation standards reflect a more qualitative accreditation as opposed to a quantitative accreditation. The purpose is to give local school districts greater flexibility while making them more accountable to the students and parents in their districts.

Each year, every public school in Montana is reviewed by the Office of Public Instruction to determine if that school's instructional program meets the current accreditation standards. The accreditation standards cover such areas as curriculum development and assessment, school personnel, class size, library/media services, educational equity, school climate, special education, gifted and talented services, academic requirements, program area standards, and school facilities and records.

As part of the accreditation process, each school district is required to develop learner goals. These goals are the attitudes, concepts, skills, and knowledges that students are given the opportunity to acquire during their K-12 schooling. Once developed, the goals are provided to the Office of Public Instruction, which uses them in reviewing a school's accreditation status. The Board of Public Education has developed model learner goals to assist local school districts in developing their own learner goals for the program areas designated by the Board. The model learner goals are divided into general goals, primary goals, intermediate goals, and goals upon graduation. The model learner goals can be found in the Montana School Accreditation Manual.

The accreditation standards do not require a school to have an Indian studies program or coursework as part of the school's instructional program. However, the standards do address the need for students to understand the history and culture of American Indians. In developing curricula, a local school board must, among other things:

> . . . nurture an understanding of the values and contributions of Montana's Native Americans and the unique needs and abilities of Native American students and other minority groups (ARM 10.55.803).

One of the accreditation standards for a social studies program is to "nurture an understanding of the contemporary and historical traditions and values of Native American cultures and other minority cultures of significance to Montana and to society" (ARM 10.55.1601). The accreditation standards for a communication arts program include a cultural diversity component. The model learning goals for law and legal rights at the primary level include the ability to begin differentiating between the various levels of governments, including tribal governments. Cultural diversity is incorporated into the model learning goals for communication arts, literature, history and world culture, and social institutions. The materials in a library/media collection must be culturally diverse.

Although there is no specific Indian studies requirement in a school's instructional program, attention must be given to the history and culture of American Indians in the curriculum in general and in a social studies program in particular. Cultural diversity must also be addressed in the curriculum and in the materials contained in the library/media center.

In 1991, House Bill No. 852 was introduced to require the Board of Public Education to adopt rules requiring schools to offer courses in Indian history and culture for accreditation purposes. The bill also required teachers to obtain credits in Indian history or culture in order to be recertified. The bill was tabled in committee, mainly because of legislative opposition to mandating curriculum in statute. However, the Office of Public Instruction has developed a curriculum guide and curriculum materials for use by teachers in planning Indian history and culture classes or Native American Day activities.

TEACHER CERTIFICATION STANDARDS

In order to teach in Montana's public schools, a person must meet certain requirements. A person must be 18 years of age or older, must be of good moral and professional character, and must have completed a teacher education program of a unit of the Montana University System or an equivalent program at an accredited institution equal in rank and standing to any unit of the Montana University System. This training must be evidenced by at least a bachelor's degree and a certificate of completion of the teacher education program.

Once a person meets the requirements, a teaching certificate is issued. There are various classes of certificates: standard; professional; administrative and supervisory; vocational, recreational, or adult education; provisional; and specialist. The Board of Public Education is responsible for approving teacher education programs. The Board sets standards by which a program is judged. Areas for which standards are set include the organization of the institution offering the teacher training; student admission, retention, and exit policies; student personnel services; student participation in teacher education program development and evaluation; faculty and instruction; facilities and instructional materials; school-institutional relations; curriculum principles and standards; teaching areas; specialization; and innovative and experimental programs. It is in the teaching areas' standards that references to Indian studies and cultural diversity can be found.

All teachers are expected to be aware of and sensitive to the differing economic, social, racial, ethnic, gender, and religious backgrounds of people. In addition, teachers must use the curriculum to help students become familiar with and tolerant of diverse peoples and cultures.

A teacher education program preparing prospective teachers for the elementary level must provide knowledge of ethnic, linguistic, and cultural backgrounds and their effects on children, families, and society. A program must also provide sufficient preparation in content/program areas normally found in the elementary curriculum. In the area of social studies, the teacher education program must include the study of and experiences with strategies for teaching students to recognize the significant contributions of Native American people, their culture, and their unique history to Montana and

American society and history. In the area of language arts, the teacher education program must include study, application, and experiences with childhood literature, including fiction and nonfiction that represent the diverse cultures of Montana, the U.S., and the world.

For a prospective teacher of government, a teacher education program must require of its students a knowledge and understanding of the organization, powers, and practices of the national, state, tribal, and local units of government. References to cultural diversity can be found in the standards for English/language arts teaching programs and guidance and counseling programs.

In addition to being certified, a teacher is also endorsed to teach a specific level or a specific subject field. If a teacher in a departmentalized program in grades 5-12 wishes to teach Native American Studies, the teacher can be endorsed in any subject field and must have 15 quarter (10 semester) credits in Native American Studies. A qualified Indian resource person under the supervision of a certified teacher can be used in lieu of the credit requirement.

This past year, the Board of Public Education established a new certificate for an American Indian language and culture specialist. Each Indian tribe in Montana will develop criteria for qualifying an individual as competent in the language and culture of that tribe. This certificate will then be issued to an individual who meets the nonacademic requirements for certification as well as the tribal standards for competency and fluency. A teaching certificate or endorsement is not required for a person to receive this certificate.

In addition to certifying teachers, Montana also certifies administrators. One of the skills required of an administrator is the ability to design, implement, and evaluate a school climate improvement program that demonstrates an understanding of gender, multicultural, and ethnic differences in students and faculty. An administrator must also have a working understanding of the federal government and the effective use of federal education programs, including federal programs that pertain specifically to the education of American Indians. Those teacher education programs in Montana that also offer advanced degrees in education administration offer a variety of courses that address federal education programs, including programs that pertain to Indian education.

SUMMARY

In 1975, the State of Montana made a conscious decision to no longer mandate curriculum in statute. The Board of Public Education was vested with the responsibility for defining the basic instructional program for Montana's public schools. In 1989, the Board revised its accreditation standards to give local school district trustees greater flexibility in designing a curriculum that met the needs of the people whom they serve and that fit their resources and facilities, while still meeting common student goals and expectations. One of these expectations is that students will understand the values and contributions of American Indians.

The Board of Public Education is also responsible for devising a system for teacher certification and specialist certification. As part of that system, the Board has adopted a stringent set of standards that teacher education programs and teachers themselves must meet. When the Board has considered it appropriate, the standards address American Indian history and culture as well as multiculturalism.

CHAPTER FIVE

PUBLIC HEARINGS

INTRODUCTION

Over the interim, the Committee on Indian Affairs conducted three public hearings on Senate Joint Resolution No. 11. The public hearings took place at Crow Agency, Great Falls, and Poplar. In addition, Committee staff attended the Montana Forum for Effective Education of Indian Students at Great Falls in October 1995, at which Indian educators addressed Senate Joint Resolution No. 11.

The purpose of the public hearings was to gather information pertaining to the implementation of Article X, section 1, subsection (2), of the Montana Constitution. However, many witnesses used the public hearings as an opportunity to express their concerns about the educational experiences of Indian students in Montana's public schools. These concerns included such things as an irrelevant curriculum, Indian student high dropout rate, drug and alcohol abuse, discriminatory practices, and insensitive teachers and administrators. The following is a summary of the comments received at the public hearings. They have been divided into six categories: public schools, public school personnel, teacher education, higher education, funding issues, and miscellaneous. A more complete list of the comments may be found in Appendix B.

Public Schools

The major problem identified for public schools was the lack of Indian history and culture classes in the schools. Time and time again, educators and students alike decried the lack of information in the public schools about American Indians. However, witnesses at the public hearings argued for more than just special activities on Native American Day. The teaching of Indian history and culture should begin in kindergarten and continue through high school. Indian studies should be integrated throughout the curriculum and should be an integral part of the accreditation requirements, not an optional offering.

A closely related problem is the misinformation or the lack of information on Indian history and culture in school textbooks. Although social studies and history textbooks are the ones most often criticized, other textbooks, such as literature textbooks, should also be scrutinized. Witnesses called for the development and implementation of selection guidelines for textbooks that take into consideration the portrayal of American Indians. Witnesses also called for the review of school library collections to see if the collections reflect the history and culture of Indian people of Montana.

Public School Personnel

The lack of Indian teachers, administrators, and support staff was the biggest complaint about public school personnel. Witnesses felt that more Indian personnel would not only provide role models for Indian students but would also help non-Indian students become culturally aware and sensitive. Next to the lack of Indian personnel, witnesses identified a lack of cultural awareness and sensitivity among non-Indian teachers as a major concern. Many witnesses said that they believed that non-Indian teachers do not involve themselves in the Indian communities in which they live and do not enroll their own children in reservation schools. The subtle message being conveyed by this behavior is the second-class status of Indians; the message does little to advance cultural sensitivity and acceptance among non-Indians.

Another concern identified by witnesses at the public hearings was teacher tenure. Because of tenure, teachers who lack cultural sensitivity or who resist incorporating Indian studies into their coursework are difficult to remove. However, the turnover in certified personnel, especially in rural, reservation schools, was also cited as a concern. Because teachers do not stay long in these schools, they feel no need to become acquainted with the local tribal history and culture.

The solution identified most often in the public hearings relating to the problems with public school personnel is to hire more Indian teachers, administrators, and support staff. At every public hearing, Indian educators, parents, and students called for more Indian personnel in the public schools. One witness suggested that a data base of Indian teachers and administrators be maintained in a central location for use by school districts. Another suggestion was to involve tribal governments in the recruitment of Indian teachers.

Witnesses also called for better training for all teachers in Indian studies, multiculturalism, and cultural sensitivity. For teachers on or near Indian reservations, tribal-specific cultural training was advocated. Many of those testifying at the public hearings requested the Legislature to mandate Indian studies for all teachers in the state, regardless of where they teach.

Teacher Education

The major concerns identified for the teacher education programs in the state were that education graduates are poorly prepared for cultural diversity in the classrooms and the dearth of Indian students graduating from the teacher education programs. The poor preparation was blamed on the failure of the education programs to require any type of training in Indian studies and on the lack of knowledge about cultural perspectives and practices of the various tribes in Montana on the part of the faculties in the schools of education. The dearth of Indian students in teacher education programs was blamed, among other things, on the use of the National Teachers' Examination (NTE) to certify teachers in Montana. The NTE has been found to be culturally biased against minorities, and Indian students have particular difficulty in passing the NTE.

Solutions to the identified problems were to abandon the NTE as a tool for certifying teachers, to require cultural awareness training for faculty in the teacher education programs, and to require teacher graduates to take a course or courses in Indian studies. Many witnesses called for the reinstatement of the original Indian studies law.

Higher Education

As with public schools, the complaints about the Montana University System centered on the small number of Indian students in the system and the disparity in the number of Indian faculty. Although the public school population is roughly 10% Indian, the student population in the Montana University System is barely 3% and Indian faculty and staff account for barely 1%. Witnesses also felt that it was unfair for the institutions to shift the responsibility for the recruitment and retention of Indian students and faculty to the Native American Studies programs on some of the campuses. Recruitment and retention should be the responsibility of the central administration, not of an individual program.

Witnesses also noted the lack of a visual reflection of Indian culture on the campuses of the Montana University System. A person can walk across an Montana University System campus and never see any evidence of the presence of Indians in Montana.

Support for the continuation of the Indian fee waiver in the Montana University System is strong in the Indian education community. The fee waiver is seen as a way for Indian students to continue their higher education. There is also support for specific recruitment efforts aimed at increasing the number of Indian students and faculty members in the Montana University System.

In recent years, efforts have been made to increase the communication and cooperation between the Montana University System and the tribal colleges. Collaborative efforts such as these should continue and increase so that tribal college graduates will matriculate into the Montana University System.

Funding Issues

Although concern was repeatedly expressed over the decrease in federal funding for Indian education programs, witnesses were also concerned about the erosion of the Indian education positions at the Office of Public Instruction and the Office of the Commissioner of Higher Education. Witnesses felt that without these key positions, Indian studies and Indian concerns would be neglected in public schools and in the Montana University System. Both positions are supported out of the general fund, and the fear is that they are easy targets for elimination. Both positions serve as excellent resources for such things as curriculum materials, cultural awareness training, recruitment and retention plans, and statistical information. Concern was also expressed for the Montana Advisory Council on Indian Education. The Council has already suffered a decrease in funding, and supporters fear that any further erosion in support will dilute whatever value the Council has left.

Miscellaneous Issues

One issue that was brought up time and again at each public hearing was the lack of knowledge on the part of the general public regarding Indian history and culture. Witnesses felt that if this lack of knowledge could be overcome, many of the problems existing today between the Indian and non-Indian communities could be alleviated. Witnesses felt that it was

particularly important that state officials, elected and appointed, have a basic knowledge of Montana Indian tribes.

Summary

The key issues identified by the many witnesses who testified before the Committee at the various public hearings were the need for more Indian history and culture classes in all public schools, the need for more teachers who are knowledgeable about and sensitive to Indian history and culture, and the need for more Indian teachers and administrators. Many of the other issues identified by witnesses at the hearings supported these key issues.

CHAPTER SIX

COMMITTEE CONCLUSIONS

Based on the results of the surveys, the public hearings, and the research performed by staff, the Committee on Indian Affairs reached the following conclusions in its study of Article X, section 1, subsection (2), of the Montana Constitution:

1. The intent of Article X, section 1, subsection (2), of the Montana Constitution is for **all** public schools to develop appropriate policies and programs to recognize and preserve the value of the American Indian culture and traditions.

2. Many public schools are attempting to educate their students about the role of Indians in the history of Montana and the nation by integrating Indian history into the regular history and social studies curricula and by celebrating Native American Day every September.

3. Many public schools do not provide any instruction or sponsor any activities relating to Indian history and culture.

4. Very few school districts require any specific training in Indian studies for their certified personnel, nor do they provide such instruction through inservice training.

5. The institutions of higher education in Montana are making an attempt to provide information to their students about Montana Indian people.

6. Teacher education programs are attempting to produce teachers who are knowledgeable about Indian history and current Indian issues and who are sensitive to the culture of their Indian students.

7. Although the general school accreditation standards call for an understanding of the values, traditions, and contributions of American Indians to Montana, the curriculum area standards and the model learner goals do not reflect this.

8. There are not enough Indian teachers and administrators in public schools, and many non-Indian teachers lack a basic knowledge of Indian history, culture, and contemporary issues.

CHAPTER SEVEN

COMMITTEE DELIBERATIONS AND RECOMMENDATIONS

SEPTEMBER 13, 1996

The Committee on Indian Affairs devoted two full meetings to the issues surrounding Senate Joint Resolution No. 11. The first meeting was held on September 13, 1996, in Helena. At that meeting, the Committee revisited all of the information that staff had compiled to date and began formulating recommendations. Staff presented some proposed recommendations for consideration by the Committee. The recommendations were divided into three categories: Indian history and culture classes, teacher education, and Indian studies requirement for teachers.

Indian History and Culture Classes

There were two recommendations proposed by staff:

1. to require either by statute or by rule schools to offer courses in Indian history and culture for accreditation purposes; or

2. to encourage by resolution the Board of Public Education to adopt rules requiring schools to offer courses in Indian history and culture for accreditation purposes.

Indian educators favored the first recommendation because they felt that non-Indian school boards and administrators would not implement Indian studies unless they were required by the state to do so. A perfect example was the Indian studies law. Because that law is purely optional on the part of local trustees, very few school districts have implemented it.

Committee members, however, acknowledged the constitutional authority of the Board of Public Education and local boards of trustees to supervise and control public schools. This authority has been upheld by the courts, and the Committee members felt that to attempt to mandate Indian studies classes would be futile. Staff also pointed out to the Committee that if the Legislature chose to mandate Indian studies classes, the Legislature would

also have to provide a specific means to finance the development and implementation of those classes (1-2-113, MCA). Some members were also concerned that the school curriculum is already full and that adding another required class would mean having to drop an already existing class. What courses would be considered less important and could be dropped?

After much discussion, the Committee directed staff to draft a resolution urging the Board of Public Education to adopt rules requiring public schools to offer courses in Indian history and culture for accreditation purposes.

Teacher Education

There were two recommendations proposed by staff:

1. a resolution to urge schools of education to require all teacher candidates to take at least one Indian studies course; or

2. a resolution urging schools of education to work toward multiple criteria for entrance into the teacher education program.

Many educators, Indian and non-Indian alike, believe that the key to educating children about the history and culture of Montana's Indians is to produce teachers who are knowledgeable about this subject. The first recommendation would incorporate an Indian studies class into the graduation requirements for teacher candidates. Currently, schools of education are required to have a multicultural education component in order to be accredited. There has been significant movement over the past 3 years by the education schools to educate their students on cultural diversity. Many educators, Indian and non-Indian alike, believe that the multicultural education component in Montana's schools of education should emphasize Indians because they are the predominant minority in the state.

The second recommendation addressed a concern that Indian educators have with the National Teachers' Examination (NTE) that is used as the entrance criteria for students entering into teacher education programs. The Board of Public Education would like to work with the schools of education to develop multiple entrance criteria so that the NTE is not the only criteria. This recommendation would put the support of the Legislature behind this effort.

The Committee agreed that it was important to provide better education on Indian issues at the postsecondary level and directed staff to draft a resolution encouraging the teacher training institutions in the state to require that all teacher candidates take at least one course in Indian studies prior to graduation.

Indian Studies Requirement for Teachers

Staff proposed three recommendations for consideration by the Committee:

1. reinstate the original Indian studies law and apply it to all school districts but only to new teachers, teachers reinstating lapsed certificates, teachers seeking recertification, and teachers changing certification;

2. draft a resolution urging the Board of Public Education to adopt rules requiring Indian studies of all teachers; or

3. amend the current Indian studies law to apply to all school districts.

Throughout all of the public hearings, one recommendation that was repeatedly heard was the reinstatement of the original Indian Studies Law passed in 1973. The original law had generated a tremendous amount of controversy and opposition before it was ultimately amended in 1979. However, because it had been repeatedly recommended, staff believed that it merited discussion by the Committee. Although the Committee acknowledged the importance of all teachers having some knowledge of Indian history and culture, the members were reluctant to mandate a certification requirement by statute. Because the Board of Public Education sets the teacher certification requirements, a legislative mandate was seen as a possible usurpation of constitutional authority. The Committee opted instead for the second recommendation, and staff was directed to draft the proposed resolution.

The current Indian studies law applies only to school districts on or near an Indian reservation. The third recommendation did not change the optional nature of the law but merely extended it to all school districts. The reason behind the recommendation was to impress upon school districts that the implementation of the constitutional provision calling for the preservation of

the cultural integrity of American Indians was the responsibility of all public schools, not just those with a significant Indian population. The Committee asked that the proposed bill be drafted.

The Committee asked that the drafts of the proposed legislation be sent to the Board of Regents, the Board of Public Education, the Office of Public Instruction, the tribal governments, the tribal colleges, the tribal education departments, and other interested parties for comments at the Committee's final meeting.

Another concern that surfaced repeatedly during the public hearings was the need for more Indian teachers and administrators. One way to meet this need was to give an enrolled member of an Indian tribe a preference for employment in the public schools on an Indian reservation, provided that the enrolled member met all of the qualifications for the position. Representative Heavy Runner had introduced a bill on this issue during the 1995 session that failed passage. He asked staff to redraft his proposal to extend the Indian hiring preference law to school districts and to circulate it with the other proposals for comments.

OCTOBER 22, 1996

The Committee held its final meeting on Tuesday, October 22, 1996. At that meeting, the Committee heard comments on five pieces of proposed legislation:

LCCIA.1 AN ACT CLARIFYING FOR PURPOSES OF THE INDIAN HIRING PREFERENCE LAW THAT A STATE AGENCY INCLUDES AN ELEMENTARY OR HIGH SCHOOL DISTRICT.

LCCIA.2 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE BOARD OF PUBLIC EDUCATION TO ADOPT RULES REQUIRING PUBLIC SCHOOLS TO OFFER COURSES IN INDIAN HISTORY AND CULTURE FOR ACCREDITATION PURPOSES AND REQUIRING COMPLETION OF AN AMERICAN INDIAN STUDIES CLASS BY APPLICANTS FOR A MONTANA

TEACHING CERTIFICATE OR FOR RENEWAL OF A TEACHING CERTIFICATE.

LCCIA.3 AN ACT ENCOURAGING ALL PUBLIC SCHOOL DISTRICTS IN MONTANA TO REQUIRE THAT ALL OF THEIR PERSONNEL SATISFY THE REQUIREMENTS FOR INSTRUCTION IN AMERICAN INDIAN STUDIES.

LCCIA.4 A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA ENCOURAGING THE TEACHER TRAINING INSTITUTIONS IN THE STATE TO REQUIRE THAT ALL TEACHER CANDIDATES TAKE AT LEAST ONE COURSE IN AMERICAN INDIAN STUDIES PRIOR TO GRADUATION.

LCCIA.5 AN ACT DESIGNATING SEPTEMBER 27 OF EVERY YEAR AS "AMERICAN INDIAN HERITAGE DAY" IN THE STATE OF MONTANA.

The Committee heard testimony from representatives of the Office of the Commissioner of Higher Education, the Board of Public Education, the Office of Public Instruction, Fort Peck Community College, Dull Knife Memorial College, Blackfeet Community College, Blackfeet Tribe, Fort Peck Tribes, Little Shell Band of Chippewa, Confederated Salish and Kootenai Tribal Education Department, Fort Peck Tribal Education Department, MT Human Rights Network, and the Montana School Boards Association. In addition, a delegation of students from the four high schools on the Fort Peck Reservation attended the meeting and offered testimony.

LCCIA.1

This bill draft was the amendment to the Indian hiring preference law requested by Representative Heavy Runner. The bill was supported by the tribal representatives who felt it would help bring more Indian teachers into the school districts on the reservations. James Parker Shield of the Little Shell Band of Chippewa asked that the legislation be written so that the preference would apply to nonenrolled Indians seeking jobs on reservations. He was particularly concerned about the Little Shell Band who does not have a reservation but who could benefit from the preference. Bill Powell from the Blackfeet Community College stated that the employment preference for

Indians in school jobs on the Blackfeet Reservation was guaranteed in the Agreement of 1896 between the United States government and the Blackfeet Tribe. The hiring preference is a treaty right for the Blackfeet.

The Montana School Boards Association (MSBA) expressed some reservations about the bill. First of all, the MSBA felt that it was inappropriate to define a school district as a state agency. School districts are local governmental entities, as provided by the Constitution. To define them as a state agency would set a dangerous, if not unconstitutional, precedent. Second, current law calls for school controversies to be adjudicated by the county and state superintendents. By incorporating school districts into the definition of agency in 2-8-111, MCA, the Montana Department of Labor and Industry would become the enforcer, thus causing school districts to have to defend claims against them in three separate forums. Last, current law generally exempts academic personnel from the Indian hiring preference, and therefore, the preference should not be applied to local school districts either.

The MSBA recommended that the legislation be amended to allow local school districts the option of extending the hiring preference to Indian candidates. The MSBA believed that under current law, a school district could not extend this preference without violating the discrimination provisions of Title 49, chapter 2, MCA, commonly called the Montana Human Rights Act. The MSBA also recommended that the application of a hiring preference to school districts be codified in Title 20, so as to preserve the principle of local control of schools.

After much discussion, Representative Heavy Runner agreed to work further on the legislation with the Committee attorney. The Committee took no action on whether LCCIA.1 would be a Committee bill.

LCCIA.2

This proposed resolution addressed two issues: the need for more instruction on Indian history and culture in the public schools and the need for all teachers to have some basic knowledge about Indians. The tribal representatives all strongly supported this resolution. They felt that because non-Indian teachers predominate, even in the reservation schools, these teachers need to have a basic understanding of the cultural background of Indian children in order to teach them. A teacher cannot teach a child if the

teacher cannot reach a child. Tribal representatives also expressed the need for more Indian studies in the schools. Just because a child is an enrolled member of a tribe does not mean that that child has a positive Indian identity. Despite the advances made in the portrayal of Indians in textbooks and in the media, Indians still suffer from stereotyping that negates an Indian student's feeling of self-worth.

Joyce Silverthorne, a member of the Board of Public Education, recommended that, instead of a specific course on Indian studies, information on the history, culture, and language of Indians should be infused throughout the curriculum. A specific course could easily be targeted for elimination. Committee members expressed concern about how this infusion would be measured. Ms. Silverthorne replied that the Board will be reviewing the accreditation standards next year, including the model learner goals. This would be an opportunity for Indian studies to be integrated into the learner goals as a way to measure schools' compliance. The Office of Public Instruction also testified in favor of the integration of Indian studies into the current curriculum.

Richard Little Bear, acting president of Dull Knife Memorial College, requested that Indian studies not be limited to history and culture. A knowledge of contemporary Indian issues is also important. In addition, teachers need to know of the learning styles of Indian students, not just their history.

The Committee asked staff to rewrite the resolution by incorporating Ms. Silverthorne's recommendation, adding an implementation date, and urging the Board of Public Education to develop model learner goals that reflect the inclusion of Indian studies.

LCCIA.3

This piece of legislation was designed to impress upon all school districts in Montana the importance of a basic knowledge of Indian issues on the part of teachers and administrators. Throughout its study, the Committee had repeatedly stressed that the constitutional provision was not meant to apply only to school districts on or near an Indian reservation but that all school districts had a constitutional responsibility to preserve Indian cultural integrity. There was general support for this bill draft, although tribal

representatives would have preferred to have a stronger Indian studies law. The Committee accepted this legislation as drafted.

LCCIA.4

This resolution was another way of addressing the issue of requiring teachers to have some basic knowledge of Indian studies. Richard Crofts, Interim Commissioner of Higher Education, stated that the schools of education of the Montana University System have worked very hard over the last few years to include a diversity component in their curricula. In fact, multicultural education is required for the accreditation of teacher education programs. At the same time, however, the Board of Regents is working to reduce the course requirements for students within the Montana University System. Adding a required Indian studies course is not feasible at this time. Interim Commissioner Crofts added that even though this is just a resolution, the Board of Regents takes legislative intent very seriously and requested that the Committee amend the resolution to require that Indian studies be integrated into the current teacher education curriculum. Committee members expressed concern about how the integration would be measured, questioning whether some sort of performance standard should be added to the resolution.

Indian educators urged the Committee to not amend the resolution. They felt that a separate course was necessary to emphasize the importance of the requirement. However, they also acknowledged the need for the schools of education to have some time to implement such a requirement. The Committee asked staff to redraft the resolution to include a delayed implementation date.

LCCIA.5

This bill draft was requested by Representative Heavy Runner. In 1975, the Legislature passed a resolution designating the fourth Friday in September as Native American Indian Day. Since then, many school districts across the state have held commemorative exercises on this day. In some instances, Native American Indian Day has become Native American Week. The purpose of this bill draft was to put the practice into statute, thus requiring all school districts to conduct appropriate exercises. The Committee asked that September 27 be changed to the fourth Friday in September and agreed to sponsor this as a Committee bill.

General Revisions

Throughout the meeting, as each proposed piece of legislation was discussed, there was a general consensus that Montana Indians be emphasized in any coursework that was developed and in the resolutions and bills themselves. This was especially important to the Little Shell Band of Chippewa who have state recognition but are not yet federally recognized and do not have a separate reservation. It was also requested that, wherever possible in the legislation, the names of each Montana tribe be listed. Tribal identity is very important to Indians, and this should be reflected in any legislation affecting them. The Committee agreed to incorporate these requests into the final drafts.

Final Recommendations

After further consideration of the five pieces of propsed legislation, the Committee on Indian Affairs voted to sponsor only one bill. "An act designating the fourth Friday in September as American Indian Heritage Day" (LC0530) will be submitted to the 55th Legislature for consideration and adoption. (For the complete text of the legislation, please refer to Appendix C).

PART TWO

VISITS TO MONTANA INDIAN RESERVATIONS

". . . hold hearings both on and off reservations to promote better understanding between tribes and public agencies and to improve both the Indian people's knowledge of the structure of state agencies and the legislative process and the non-Indian people's knowledge of tribal government and institutions; . . ."

5-19-108, MCA

PREFACE

One of the duties of the Committee on Indian Affairs is to hold hearings on Indian reservations in order to promote better understanding and communication between Indian and non-Indian people. For many years, the Committee, for a variety of reasons, had not traveled to reservations to meet with tribal representatives and to get a first-hand look at reservation life. This ended in 1994 when the Committee made its first trip to the Fort Belknap Indian Reservation in north-central Montana. The trip was so successful that the Committee voted to continue these visitations, hoping to complete at least two during an interim.

During the 1995-96 interim, the Committee made two trips: to the Crow Reservation in November 1995 and to the Fort Peck Reservation in June 1996. Both of the trips were successful and have generated a wealth of good will between the state and the Crow and the Assiniboine and Sioux Tribes.

The Committee wishes to thank the following people for their contributions to the success of these reservation visits:

For the Crow Tribe:

Clara Nomee, Chairperson, Crow Tribal Council
Joe Pickett, Vice Chairman, Crow Tribal Council
Elizabeth Reece, Tribal Contracting Officer

For the Assiniboine and Sioux Tribes:

Caleb Shields, Chairperson, Fort Peck Tribes
Jackie Miller, Tribal Administrative Officer
Donna Buckles-Whitmer, Tribal Education Director

CHAPTER ONE

CROW INDIAN RESERVATION

BACKGROUND

The Crow Indian Reservation is located in south-central Montana in the counties of Big Horn, Yellowstone, and Treasure and is home to the Crow Indians. The reservation extends from Hardin to the Wyoming border and from the Wolf Mountains to the Northern Cheyenne Reservation border. The center of tribal activities is Crow Agency. There are approximately 2.2 million acres of land within the boundaries of the Crow Reservation, making it the largest reservation in Montana. Of that amount, about 66% is held in trust for the tribe or for individual Indians. In addition, the Crow Tribe owns the mineral rights to approximately 1.1 million acres to the north and east outside the reservation boundaries. This land is referred to as the Ceded Strip. The land is mainly gently rolling hills and semiarid plains, with the exception of the Pryor and Big Horn Mountains. The Big Horn and Little Big Horn Rivers and Pryor Creek flow through the reservation.

The current boundaries of the reservation were set by treaty in 1880. The first allotment of the Crow Reservation occurred in 1888, and the reservation was opened to non-Indian settlement in the early 20th century. In 1920 what was left of the reservation was divided among the rest of the enrolled members. Although most of this allotted land was along the more productive river bottoms, many allottees sold their land to non-Indians, thus allowing much of the Crow's land to pass out of Crow hands.

The reservation is rich in natural resources, the major resource being subbituminous coal. In addition, there are significant oil and gas reserves, some timber, good dryland farming and grazing lands, and substantial water resources. Development of these resources has mainly been by non-Indian interests, with the revenue flowing to the tribe.

As of February 1995, there were 9,155 tribal members, approximately 72% of whom live on the reservation. The majority of tribal members live in the Big Horn and Little Big Horn River valleys.

The Crow Tribe is one of only two tribal governments in Montana that did not accept the 1934 Indian Reorganization Act. The Crow Tribe adopted its constitution in 1948 and has a general-council form of government. All of the adult members of the tribe are members of the Tribal Council. The Council meets four times a year to set policy and make decisions. The Council elects a chair, vicechair, secretary, and vicesecretary to 2-year terms. In 1990, the Council passed a resolution giving the tribal chair the authority to conduct the administrative, financial, and overall affairs of the tribe in between Tribal Council meetings. The day-to-day operations of the tribe are directed by several committees. Supporters of the general-council government argue that it allows everyone to be directly involved in tribal decisions. Critics maintain that the general-council is inefficient and ineffective and bars the tribe from resolving many of the economic issues that it faces. Restructuring the tribal government is an issue that the tribe may have to face in the near future.

The major employer on the Crow Reservation is the federal government: Bureau of Indian Affairs, Indian Health Service, and National Park Service. The Crow Tribe attempted some small economic development projects in the late 1960s and early 1970s, but they failed mainly because of bad management and poor planning.[1] The tribe is currently working on the development of a coal-fired generating plant, using the reservation's vast coal resources. The tribe derives significant revenue from oil, gas, and coal leases. In 1993, the tribe entered into a gaming compact with the state and opened a casino at Crow Agency. As with most reservations, unemployment is a major problem on the reservation. Unemployment fluctuates between 50% and 60%, depending upon the season of the year.[2]

The Indian Health Service operates a state-of-the-art hospital at Crow Agency that serves both the Crow and Northern Cheyenne Reservations. The hospital offers both inpatient and outpatient services, an emergency room, pharmacy, and health education. Future tribal health initiatives include a kidney dialysis unit and a nursing home.

There are four public school districts on the reservation and one private school that provide education to Crow children. At the postsecondary level, Little Big Horn College offers associate of arts degrees in nine areas: business administration, office systems, Crow studies, social science, data processing, general studies, home economics, science, and mathematics.

The A.A. degree in science has options in prenursing, premedicine, preengineering, general science, and environmental science. The College has articulation agreements with all of the units of the Montana University System, Rocky Mountain College, and the University of Great Falls. The College opened in 1981; since that time, it has granted 160 degrees with 2,500 tribal members having taken at least one course at the College. One valuable benefit of the College's presence on the Crow Reservation is the increase in the number of tribal members with 4-year college degrees. In 1970, only 35 tribal members had a 4-year degree; by 1996, that number had risen to almost 400.[3]

DIALOGUE WITH THE CROW TRIBE

The Committee on Indian Affairs visited the Crow Reservation on November 7 and 8, 1995. On November 7, the Committee toured the tribal complex, Little Big Horn College, the Indian Health Service Hospital, and the Little Big Horn Casino. On November 8, the Committee entered into a dialogue with Crow tribal officials in an attempt to better understand the issues confronting the tribe and to seek ways in which the Committee might assist in addressing those issues. One of the major benefits of the dialogue was to educate Committee members on some issues that may come before them during the legislative session. Gaining a better understanding of how an issue specifically affects Indians will assist Committee members in deciding their position on an issue.

Taxation

Denis Adams, Crow Tax Commissioner, gave an overview of the taxes collected by the Crow Tribe, the problems that the tribe has encountered, and suggestions on how the state and the tribe could work together in the future. The Crow Tribal Taxation Code includes coal severance and coal gross proceeds taxes, railroad and utility taxes, and a resort tax. Tax proceeds are used to fund services on the reservation, such as law enforcement, garbage disposal, fish and game regulation, and recreational facilities, and to make up for the reductions in federal funding currently being made in Washington, D.C.

The resort tax, which has caused the greatest controversy on the Crow Reservation, is modeled after the state's local option resort tax. The tax

applies to lodging and, therefore, results in dual taxation on the reservation between the state and the Crow Tribe. Objections to the resort tax have come mainly from the business owners and not from the tourists. The Crow Tribal Tax Code includes a provision for paying taxes under protest, and many resort businesses have chosen this route. However, a number of businesses have refused to pay the tax, and according to the Tax Code, the tribe can seize and sell their property. This has made for a very volatile situation on the reservation. Mr. Adams stated that a revenue-sharing agreement with the state would go a long way in alleviating some of the tension. Unfortunately, there had been no serious negotiating over the resort tax. Mr. Adams believed that those state agencies that receive the revenue from the state lodging tax guard that revenue very closely, and a revenue-sharing agreement could result in the loss of some revenue for them.

The coal severance tax has been a source of protracted litigation between the state and the Crow Tribe since the 1980s. Court decisions have consistently gone against the state. The issue currently under litigation is the coal severance taxes paid to the state during the late 1970s and early 1980s and not placed in an escrow account. The amount could exceed $300 million, including interest. At the time of the Committee's visit to the Crow Reservation, the case was still before a panel of the Ninth Circuit Court of Appeals. Since that time, however, the panel has ruled in favor of the tribe, but the state has requested a rehearing of the panel opinion. A final decision on the issue will most likely come from the U.S. Supreme Court.

107th Meridian Settlement

Tyrone Ten Bear addressed the Committee on the boundary settlement agreement recently concluded between the Crow Tribe and the federal government. In 1868, the U.S. Congress established the 107th meridian as the eastern boundary of the Crow Reservation. In 1891, a federal survey crew inaccurately marked the eastern boundary, resulting in a loss of 36,000 acres of land that should have been included within the reservation. After many years of negotiation, the tribe and the federal government reached an agreement in 1994. The 36,000 acres have been divided into four parcels. The Crow Tribe received the coal deposits on Parcel One that were owned by the federal government. Furthermore, state lands located in Parcel One will be returned to the tribe through a negotiated land exchange between the state and the Bureau of Land Management. The U.S. Government will purchase Parcels Two, Three, and Four for $85 million. This money will be

placed in a trust fund to help the tribe with economic development projects. Because some of the 36,000 acres involved land privately owned by non-Indians and land within the boundaries of the Northern Cheyenne Reservation, the agreement was carefully crafted so as to hold harmless all the involved parties, yet still give the Crow Tribe the land that rightfully belonged to them or a monetary remuneration.

Allotment Act of 1920

Mr. Myron Falls Down reported on litigation with the federal government that the tribe is currently involved in regarding violations of the Allotment Act of 1920. Section Two of the Allotment Act prohibits the Crow Tribe from conveying land directly or indirectly to landowners within the reservation who already own a set number of acres. The tribe maintains that the Bureau of Land Management violated that prohibition on numerous occasions, beginning as early as 1946. The lawsuit seeks appropriate action in light of these violations.

Gaming

In April 1993, the state and the Crow Tribe entered into a gaming compact in accordance with the provisions of the Indian Gaming Regulatory Act. The compact allowed the tribe to offer electronic keno and poker, along with bingo, simulcast racing, and lotteries. The Crow Tribe also wanted to install slot machines, which they believed were legal under the terms of the compact. The state disagreed and seized the machines from the tribe. The tribe filed suit, only to have the suit decided in the state's favor in federal District Court. The tribe appealed the decision to the Ninth Circuit Court of Appeals and is awaiting a decision.

Indian Health Service

Garfield Little Light of the Billings Area Indian Health Service (IHS) addressed some concerns that his office has with the Montana Department of Public Health and Human Services. Accurate vital statistics are very important to the IHS because birth and death data are used for budget development and resource allocation. The IHS has not been able to receive this information from the Department in a timely manner. He asked the Committee to send a letter to the Department encouraging it to provide the data as soon as possible. Mr. Little Light was also concerned that the Department is paying very little attention to the Indian population when considering managed care for mental health programs. He was concerned that, without careful

planning and consideration of patient needs, managed care programs could compromise accessibility to services and the quality of the services themselves.

Bureau of Indian Affairs

Ken Davis, Bureau of Indian Affairs Superintendent, Crow Reservation, reported on the budget negotiations in Washington, D.C., and their impact on the BIA and ultimately on the Crow Tribe. He also informed the Committee that the tribe and Big Horn County will be seeking from the Legislature the classification of the Pryor Road as a secondary highway in order to qualify for federal highway dollars.

Institute for Micro-Business and Tourism

Janine Pease Pretty On Top, Little Big Horn College, described the fledgling microbusiness institute on the Crow Reservation. The Institute for Micro-Business and Tourism has developed a tourism business involving tours of the Little Big Horn Battlefield and cultural presentations and demonstrations. The Institute also sponsors an Artist-in-the-Park series. The Institute hopes to expand beyond its tourism efforts and eventually assist tribal members to open their own businesses.

Summary

The Committee felt that the meeting with the Crow Tribe was immensely beneficial. The relationship between the state and the Crow Tribe has been fraught with controversy and conflict. The meeting provided Committee members with a view of the various controversies from the Crow side and helped the members arrive at a more balanced position on the many issues separating the state and the tribe. Since that November meeting, Crow tribal officials have attended other Committee meetings, something that had not occurred in the past.

ENDNOTES

1. William L. Bryan, Jr., Montana's Indians, Yesterday and Today (American & World Geographic Publishing: Helena, Montana, 1996), p. 87.

2. Ibid.

3. Ibid., p. 88.

CHAPTER TWO

FORT PECK INDIAN RESERVATION

BACKGROUND

The Fort Peck Indian Reservation is the second largest reservation in area in Montana and is home to two different tribes: the Assiniboine and the Sioux. Located in far northeastern Montana, the reservation stretches from Big Muddy Creek on the east to Porcupine Creek on the west and from the Missouri River on the south to 40 miles north. Most of the reservation is in Roosevelt County, although parts of it are in Daniels, Valley, and Sheridan Counties. The center of tribal activities is the city of Poplar. There are approximately 2.1 million acres of land within the reservation's boundaries. Of that amount, only 44% are under tribal control. The land is generally flat with some rolling hills. Cottonwood trees along the river and creek bottoms are the only timber resources.

The present boundaries of the Fort Peck Reservation were set in 1888. The arrival of the Great Northern Railroad brought many settlers wanting to homestead there. The Fort Peck Allotment Act was passed in 1908, and the reservation was opened to homesteading and the sale of surplus land in 1913. Fortunately, not all of the surplus land was taken, but most of the best agricultural land passed out of Indian control.

The Fort Peck Reservation has an abundance of good grassland and a substantial water supply, along with coal, oil, and natural gas deposits. Oil was first discovered on the reservation in the 1940s. Since that time, the tribes have entered into numerous agreements with a number of private companies to develop this resource. Over the years, the Fort Peck Tribes have become more sophisticated in its dealings with the oil companies, resulting in significant revenue for the tribes.

There are approximately 11,000 enrolled members of the Fort Peck Tribes. About half live on the reservation, primarily concentrated along the southern boundary, which is the Missouri River.

The Fort Peck Tribes were not organized under the Indian Reorganization Act, preferring instead to retain the tribal constitution adopted in 1927. The governing authority is the Fort Peck Tribal Executive Board composed of 12 members, plus a tribal chairman, a vicechairman, and a sergeant at arms, elected for 2-year, nonstaggered terms. The tribal chairman has general supervision over all tribal employees. The Executive Board members serve on eight committees: safety, finance, development, land and minerals, oil and gas, health, education and welfare, and legislature. Development plans or changes in tribal policies go through these committees before being considered by the entire Executive Board. The 2-year, nonstaggered terms of office subject the Fort Peck Tribes to possible major changes in tribal leadership every 2 years. Although for some tribes this could prove disastrous, Fort Peck has been blessed with leadership continuity over the last several decades.

Economic development on the Fort Peck Reservation over the last 20 years has been dominated by A&S (Assiniboine and Sioux) Tribal Industries. A&S began in the mid-1970s producing materials for the Department of Defense: camouflage netting and insulated food and medical storage boxes. A&S is now attempting to make the transition from Department of Defense contracts to private commercial contracts. The transition has not been easy. From a high of almost 500 employees during Operation Desert Storm, A&S now employs about 20. One contract for the production of machines that dispense hard ice cream has proved unsuccessful because of the high cost of producing the machines. A second contract for the production of thermal stone ovens and food warmers may prove more successful. A&S is still producing netting but for commercial, not defense, purposes. A&S has received a grant from the Department of Defense to help retool for the commercial market. A&S managers believe that the turnaround has begun and that A&S will again be a dominant force on the reservation.

A second manufacturing enterprise on the reservation, called Looking Eagle Manufacturing, does silk screening and cut and sew manufacturing. Some of its products include canvas tipis and nylon goods such as tote bags, sports bags, laptop computer carriers, wallets, and backpacks. As with most tribal manufacturing concerns, Looking Eagle needs to market its goods to a wider audience.

Over the past few years, the tribes have purchased 2,600 acres of agricultural land along the Missouri River near Oswego and has begun a tribal farming and ranching operation. Another new economic development project being pursued by the tribes is an aquaculture facility/hydroponics greenhouse near the tribal complex at Poplar.

There are four public school systems that serve the Fort Peck Reservation: Brockton, Poplar, Wolf Point, and Frazer. There are two colleges on the reservation. Fort Peck Community College (FPCC) is a tribally controlled community college chartered by the Fort Peck Tribes in 1978. Located in Poplar, FPCC awards an associate of arts degree, an associate of science degree, an associate of applied science degree, and numerous certificate programs. The associate of arts and the associate of science degrees are designed for students who are likely to transfer to a 4-year institution. In addition to the course offerings in Poplar, FPCC regularly offers classes in Wolf Point and occasionally in both Frazer and Brockton. A second college on the reservation is NAES (Native American Education Services) College-Fort Peck Site whose main campus is in Chicago. NAES College awards a bachelor of arts degree in community studies.

The Fort Peck Tribes were the first in Montana to sign a gaming compact with the state under the Indian Gaming Regulatory Act. The Silverwolf casino was opened in Wolf Point in 1988. The casino offers poker and keno machines and bingo. The Fort Peck Tribes led efforts at the Legislature in 1995 to expand gambling on reservations to include slot machines, craps, and blackjack. The legislation also called for the tribes to pay 8% of the net revenue to the state to help fund local government operations in reservation counties. The effort was unsuccessful. The Fort Peck Tribes still view gaming as a viable economic development opportunity. However, plans for a large casino and resort complex have been delayed indefinitely.

DIALOGUE WITH THE FORT PECK TRIBES

The Committee on Indian Affairs visited the Fort Peck Reservation on June 6 and 7, 1996. On June 6, the Committee toured the tribal ranch, Looking Eagle Manufacturing, the Silverwolf Casino, A&S Industries, and the Spotted Bull Treatment Center, a facility providing both inpatient and outpatient treatment for youth suffering from drug and alcohol addiction and out-patient

treatment for adults with drug and alcohol problems. On June 7, the Committee met with Fort Peck Tribal officials to discuss issues of mutual interest.

Fetal Alcohol Syndrome

Carlene Red Dog, Tribal Fetal Alcohol Syndrome Coordinator, discussed the work of the Montana State Women's Resource Council in the area of fetal alcohol syndrome (FAS). FAS is a major problem on the Fort Peck Reservation because of the high rate of alcoholism. Education and prevention are the twin tools to fight this hideous disease. Other tribal members commented that one of the underlying causes of FAS is the high rate of unemployment on the reservation. When people are employed, they do not drink. The state needs to work with the Fort Peck Tribes to address the economic problems that exist on the reservation. Otherwise, FAS will continue to plague the Fort Peck children.

Environmental Issues

Debi Madison, Natural Resource Specialist for the Fort Peck Tribes, discussed the tribes' proposal to establish its own water quality standards. This proposal came about as a result of a decision by the former Department of Health and Environmental Sciences to rescind an administrative rule that stated that the Department does not set water quality standards on reservations. The Fort Peck Tribes have applied to the Environmental Protection Agency for treatment as a state (TAS). This TAS designation would give the tribes the authority to set water quality standards within the exterior boundaries of the reservation in much the same way that a state sets standards. The state is not supportive of the tribes' application because the position of the state is that tribes have authority only over tribal members on tribal land. Attempting to set different standards on different pieces of land and associated waters, depending upon who owns that land, would be a logistical nightmare. The real issue in all of this is that non-Indians living on a reservation do not want to be regulated in any manner by a tribal government.

On a more positive note, Ms. Madison reported that the tribes and the state have concluded an agreement for the inspection and regulation of underground storage tanks. Also, the Fort Peck Tribes are seeking federal authorization for a water project on the reservation. The state has agreed to

work with the tribes on the project. The tribes will seek some funding through the Treasure State Endowment Program.

Child Support Enforcement

Rita Weeks, Tribal Court Administrator, expressed concerns that the Department of Public Health and Human Service was not filing petitions for establishment of paternity or child support obligations in tribal court. Ms. Weeks has heard of cases in which tribal members have had drivers' licenses revoked or suspended and liens placed on property for failure to pay child support, and the tribal court has no knowledge of these decisions. She feared that the Department was hearing the petitions in an administrative hearing and not in tribal court where they should be. The Tribal Chairman received a letter in March from Mary Ann Wellbank, Administrator of the Child Support Enforcement Division of the Department, regarding a potential state-tribal agreement. Since then, there had been no further communications.

At the Committee's request, Ms. Wellbank appeared before the Committee at its September 13 meeting in Helena. Ms. Wellbank explained the position of the Child Support Enforcement Division and stated that since the Committee's meeting with the Fort Peck Tribes, the Division had met with the tribes and had begun negotiating an agreement for the enforcement of child support on the reservation.

Law Enforcement on the Reservation

One of the major issues of concern to the Fort Peck Tribes was the jurisdictional complications that arise when a non-Indian commits a crime against an Indian. Jurisdiction depends on where the crime occurred, who committed the crime, and what type of crime it was. There have been instances in which a non-Indian perpetrator has gone free because a County Attorney has refused to prosecute or the U.S. Attorney's office has not had the resources to prosecute. The Committee suggested that perhaps a traveling federal magistrate or an additional U.S. attorney would help solve the problem.

Some Committee members expressed concern over the problems of criminal jurisdiction on all reservations. It appears that many crimes go unprosecuted because of jurisdictional confusion. It was suggested that this issue be studied further during the 1997-98 interim.

Welfare Reform

Stoney Anketell, Fort Peck Tribal Executive Board, expressed concerns about the new state welfare reform. The tribes fear that when the new program takes effect in all 56 counties, Indian people will be especially hard hit because of the lack of jobs on reservations. Most reservations suffer from double-digit unemployment and lack of job opportunities, and without jobs, Indian people will be thrown off welfare. The Committee asked Mr. Anketell what it would take to bring industry and businesses onto a reservation. Mr. Anketell replied that dual taxation, jurisdictional issues, and geographical remoteness are barriers that all tribes face. The first two can be addressed by the state and the tribes sitting down and working things out. The state and the tribes can no longer look at each other as adversaries.

Taxation

Ray White Tail Feather, Fort Peck Tribal Executive Board, said that another issue that must be resolved is the dual taxation of oil and gas on the reservation. The state and the Fort Peck Tribes are currently negotiating an agreement to levy a single tax and share the revenue. A similar agreement has already been reached between the state and the Blackfeet Tribe. The Fort Peck Tribes are asking for the same agreement, except that the Fort Peck Tribes are willing to not share in the county portion of the tax that goes to the schools. The state is balking in its negotiations with the Fort Peck Tribes, and the tribes asked the Committee's assistance in moving the process along.

The Committee wrote a letter to Mick Robinson, Director of the Department of Revenue, requesting a report on the negotiations at the June 24 meeting of the Revenue Oversight Committee. The Committee expressed its desire for a fair and equitable agreement that was mutually beneficial to both the state and the Fort Peck Tribes.

Summary

As with the trips to the Fort Belknap and Crow Reservations, the trip to the Fort Peck Reservation was educational and informative for the Committee members. Each trip that the Committee makes gives the members more insight into the problems facing tribal governments and more impetus for finding solutions. The Committee will continue to visit reservations during the 1997-98 interim. c25 6359cexa.

APPENDIX A

THE INDIAN STUDIES LAW:

AN EXERCISE IN FUTILITY?

A Report to the Committee on Indian Affairs

Prepared By

Connie Erickson,

Legislative Research Analyst

THE INDIAN STUDIES LAW:

AN EXERCISE IN FUTILITY?

A Report to the Committee on Indian Affairs

Prepared By

Connie Erickson,

Legislative Research Analyst

Published by
April 1996
Legislative Services Division

Legislative Services Division
State Capitol, Room 138
Helena, Montana 59620-1706
PHONE: (406) 444-3064
FAX: (406) 444-3036

THE INDIAN STUDIES LAW: AN EXERCISE IN FUTILITY?

A Report to the Committee on Indian Affairs

INTRODUCTION

With the adoption of the new constitution in 1972, the people of Montana committed themselves to the preservation of the cultural integrity of American Indians. The next year, the Montana Legislature took on the task of translating that commitment into action. The result was the Indian Studies Law. The purpose of the Law was to ensure that every Montana teacher had an understanding of and an appreciation for American Indian people. What the Law became was a source of irritation and confusion and an example of what happens when the Legislature mandates a program in an area not normally within legislative purview.

The purpose of this report is to relate the history of the Indian Studies Law: its initial implementation, its problems, and its ultimate demise. The purpose is also to analyze why the Law has failed in its mission to ensure that teachers are knowledgeable about Montana's Indian people.

MEETING THE CONSTITUTIONAL MANDATE

In the fall of 1972, following adoption of the new constitution, Indian educators developed a plan of action to implement Article X, section 1(2), of the constitution. Their first goal was to prepare teachers to teach Indian children by calling for all teacher training institutions in the state to incorporate Indian studies coursework into the teacher training curriculum. The second goal of the Indian educators was to ensure that American Indian history, contemporary Indian affairs, and the contributions made by American Indians to the development of Montana and of the United States were included in the curriculum of every public school, elementary and secondary, in Montana. A third but less important goal was to promote greater involvement by teachers in the lives of their Indian students by instituting programs to orient and acquaint teachers with the Indian community and Indian parents.[1]

With their action plan in hand, the Indian educators approached the 1973 legislative session. Their efforts resulted in the passage of House Bill No. 343,

Chapter 464, Laws of 1973:

> An Act Requiring American Indian Studies to be Part of the Educational Background of Public School Teaching Personnel Employed on, or in Public Schools Located in the Vicinity of, Indian Reservations Where the Enrollment of Indian Children Qualifies the School For Federal Funds for Indian Education Programs, and Encouraging American Indian Studies as Part of the Educational Background of all School Personnel Employed in the State.

Commonly referred to as the "Indian Studies Law", House Bill No. 343 required teachers who taught on or near Indian reservations to receive instruction in American Indian studies. After July 1, 1979, all affected school districts could employ only those certified teachers who met the Indian studies requirement. The Indian studies requirement could be met either through college courses or through inservice training developed by the Office of Public Instruction or by the local school district. The bill met with little opposition in the Legislature and, in fact, was supported by the American Federation of Teachers as well as several individual teachers.

House Bill No. 343 was actually a compromise bill. House Bill No. 501, also introduced that session, required that all teachers in Montana complete Indian studies coursework within 10 years, regardless of where they taught, in order to be employed. While this bill may have more accurately reflected the intent of the constitution, it was apparently too drastic a measure for passage and, therefore, paved the way for the acceptance of House Bill No. 343.

A second piece of legislation passed in 1973 was Senate Joint Resolution No. 17, which encouraged public schools to include in their curricula courses on Indian history, culture, and contemporary affairs and encouraged teacher training programs to prepare teachers for teaching Indian children. Although it did not have the force of law, the resolution put the Legislature on record as supporting Indian studies as an integral part of Montana's educational system.

How equipped were Montana's teacher education institutions and the Office of Public Instruction to handle the approximately 3,400 teachers affected by the Indian Studies Law? At the time of the Law's passage, only three teacher

training institutions in the state offered courses under the title of Native American Studies: the University of Montana, Eastern Montana College (now MSU-Billings), and Western Montana College (now Western Montana College of the University of Montana); Montana State University offered some American Indian courses through other disciplines.[2] The offerings were meager at best: nine courses at Billings, four courses at Missoula, three courses at Bozeman, and one course at Dillon. The remaining teacher training institutions--Northern Montana College (now MSU-Northern), Carroll College, Rocky Mountain College, and the College of Great Falls (now the University of Great Falls)--offered nothing at all in the way of Indian studies. The Office of Public Instruction had no developed program for inservice training, although the federal Johnson-O'Malley program, administered by Office of Public Instruction, offered some guidance on how to develop a program of study.

In addition to the lack of resources to meet the needs of all of the teachers who were affected by this Law, House Bill No. 343 provided no guidance on how best to implement the Law. What courses would be acceptable? Who would develop them? Were enough instructors and materials available? What was the minimum requirement in terms of credit hours? What would constitute evidence of compliance? Who would pay for the additional resources that would be needed? Would teacher candidates be required to take Indian studies courses even if they might not teach in Montana? To answer these and the many other questions that arose, the 1974 Legislature passed House Joint Resolution No. 60, instructing the Board of Public Education and the Board of Regents, acting as the State Board of Education, to devise a master plan for enriching the background of all public school teachers in American Indian culture. Although House Bill No. 343 applied only to teachers who taught on or near reservations, House Joint Resolution No. 60 called for all teachers, regardless of where they taught, to receive Indian studies training within 10 years. A committee of 45 members, 41 of whom were Indian, was formed to develop the master plan. The Committee was given 1 year in which to complete its work.

The Committee's first task was to complete a thorough study of current and

potential Indian studies programs in Montana. Out of this, the Committee formulated 17 recommendations from which the Indian Culture Master Plan (Master Plan) was developed (see Appendix A). In developing the plan, the Committee was guided by three objectives:

> (1) The Native American perspective should be emphasized in college courses, in inservice training, and in public school programs.
> (2) The Master Plan should provide a forum for the presentation of accurate, unbiased information about Native Americans.
> (3) The Master Plan should enable non-Indians to develop an appreciation for and an awareness of Native Americans.[3]

In order to meet these objectives, the Committee determined that teachers must become knowledgeable about Montana Indians and their culture and must be sensitive to the needs and concerns of Indian people. This knowledge and sensitivity could only come from exposure to Indian history, traditions, customs, values, beliefs, ethics, and contemporary affairs through programs of study and course offerings developed with the participation and assistance of Indian people.[4] To this end, the Master Plan contained recommendations for both the Montana University System and the Office of Public Instruction.

To the colleges and universities, the Committee recommended that a Native American Studies director be appointed at each teacher training institution. This director would then work with the education department and with various other departments to develop an interdisciplinary program of courses on various aspects of Indian culture from an Indian perspective. At least one of the courses was to be offered every quarter, and if possible, some courses should be available for graduate credit. A list of prospective consultants was to be developed by the director. These consultants were to be selected on the basis of their expertise rather than on their academic background. This would allow for the use of noncollege-educated Native Americans as a resource in developing relevant and appropriate courses.

The Office of Public Instruction was instructed to develop standards of competency and qualifications for persons involved in providing inservice

training in Native American Studies. As with the colleges and universities, academic requirements were not to be a major criteria for fear of excluding competent American Indians who lacked academic credentials. The Office of Public Instruction was also charged with disseminating information to all the school districts, apprising them of their responsibilities and obligations under the Indian Studies Law and the Master Plan. This information included guidelines for use by school officials in developing their own inservice programs of study.

The minimum requirements for meeting the intent of the Indian Studies Law were set at:

(1) six college quarter credits;

(2) 30 clock hours of inservice training; or

(3) a combination of college coursework and inservice training comparable to either of the above.

The Committee went on to encourage public school and University System libraries to collect materials that reflected an accurate interpretation of Native American history and culture. Bilingual and bicultural education programs were also encouraged at teacher training institutions and as a component of inservice training programs.

On December 15, 1975, the Montana State Board of Education adopted the Indian Culture Master Plan. It was now up to the units of the Montana University System, the Office of Public Instruction, and local school districts to bring Article X, section 1(2) of the Montana Constitution to life.

IMPLEMENTING THE INDIAN STUDIES LAW

When the Indian Studies Law was passed in 1974, the teacher training institutions in Montana were ill-equipped to handle the responsibilities that the Law placed on them. With the adoption of the Master Plan, however, these institutions were given the guidance and direction they needed to begin meeting their obligations. Eastern Montana College, the University of Montana, and Montana State University all doubled the number of Native American Studies

courses they offered within 3 years of the Law's adoption. Northern Montana College began offering courses in 1978. Western Montana College, which offered one course in 1973, added a second course a few years later. The University System units in Missoula and Billings were most impacted by the Law because they were within a 200-mile radius of many of the affected school districts.

Although the Master Plan applied only to the units of the Montana University System, the three private colleges in Montana--Carroll College, Rocky Mountain College, and the College of Great Falls--also began offering Native American Studies courses that complied with the Indian Studies Law in order to maintain their teacher training programs. Carroll had offered Native American Studies courses on an irregular basis prior to 1978. To meet the new Law's requirements, Carroll added courses and offered them on a more regular basis. The College of Great Falls began offering classes in 1974; Rocky Mountain College offered Native American Studies classes through its sociology and anthropology departments.

But even with the increase in the availability of Native American Studies courses, the colleges and universities had trouble meeting the demand created by House Bill No. 343. An indication of this demand can be seen in the enrollment figures for Native American Studies courses at the University of Montana: in 1971-72, there were 71 students enrolled in those courses; by 1977-78, this number had increased to over 1,000.[5] In the continuing education program, the enrollment in those courses increased from 103 in 1972-73 to 855 in 1977-78.[6]

While the colleges and universities struggled to meet the growing demand for new courses that complied with the Law, another issue arose to complicate matters. Since teacher candidates were not required to take Native American Studies courses, with the exception of academic year 1977-78, the courses were geared towards experienced teachers. Many of these teachers wanted graduate credit for the coursework for a number of reasons:

(1) Teaching certificate renewal credits generally called for upper division or graduate courses.

(2) Many school districts required graduate credit for advancement on the salary scale.

(3) Completion of a master's degree was needed to attain a "Professional Class 1" teaching certificate.

Unfortunately, those institutions that offered graduate courses were reluctant to extend graduate credit to Native American Studies courses for reasons that remain unknown.[7] The graduate schools may not have understood the need for graduate credit or may have been reluctant to grant graduate credit to a program so newly developed as Native American Studies.

The demand for more courses meant a demand for more resources, namely additional personnel to develop and teach relevant courses. The Master Plan acknowledged that additional funding would be needed to implement the Law but did not go so far as to recommend that the necessary funding be sought from the Legislature. Rather, the Master Plan stated that the costs of implementing the Master Plan should be absorbed into the Board of Regents' budget.[8]

While the teacher training institutions were struggling to comply with the requirements of the Indian Studies Law, the Office of Public Instruction and local school districts were also hard at work developing inservice training programs. Inservice training was much more appealing to teachers because it allowed them to fulfill the requirement without the expense of going away to school.

The Indian Studies Law offered two possibilities for inservice: inservice training developed by Office of Public Instruction and implemented by a local school district and inservice training developed by the local school district itself with approval by Office of Public Instruction. Both programs required 30 instructional contact hours with approximately 2 hours of additional study for

each contact hour and had to follow the curriculum defined in the Indian Studies Law. The inservice model developed by the Office of Public Instruction was entitled "American Indian History and Culture: An In-Service Training Course for Teachers" and contained four components: cross-cultural awareness, an overview of American Indian history and culture, specific tribal and community orientations, and classroom strategy. Each component was accompanied by a resource list, a bibliography, and a directory of resource people to act as possible consultants. If a local school district used the this model, the district was encouraged to adapt the course to its own community.[9]

If a local school district chose to develop its own inservice training program, it was required to use the same four components described above. In addition, the local district had to provide the Office of Public Instruction with the following information:

(1) evidence of local Indian involvement in the planning and design of the training;
(2) the specific objectives to be accomplished in the training;
(3) an outline of the proposed course;
(4) a list of instructors and resource people, including resumes, if possible;
(5) a bibliography of materials;
(6) evidence of Indian participation in the implementation;
(7) the actual number of instructional contact hours and number of additional activities planned;
(8) the number of participants expected; and
(9) a description of the evaluation method to be used in measuring the effectiveness of the training.[10]

In order to help those districts that chose to develop their own inservice programs, the Office of Public Instruction, in cooperation with the Native American Culture Institute at the University of Montana, the General Assistance Center in Ogden, Utah, and the Center for Cross-Cultural Awareness in Denver, Colorado, sponsored a program that trained people in facilitation, cross-cultural

awareness, and classroom strategies. These trainees then returned to their school districts to help set up the inservice training.

While the inservice training was the most popular way for teachers to meet the new Law's requirements, reactions to the training were mixed. The inservice programs that received high marks from participants were those that were well-planned, that offered college credit, that were not mandatory for every teacher, that and were planned by enthusiastic and committed people. Negative reactions to the inservice stemmed from the poor quality of some guest speakers and from speakers who alienated teachers by holding all non-Indians collectively responsible for the past exploitation of Indian people.[11]

Other negative reactions stemmed from opposition to a legislative mandate that forced workshop participation and threatened loss of employment. Tenured teachers were particularly concerned; they felt that they should have been grandfathered into the Law. Their concerns led Georgia Ruth Rice, Superintendent of Public Instruction, to seek an opinion from Attorney General Mike Greely as to whether or not tenured teachers were covered by the Indian Studies Law. Superintendent Rice posed the following question to Attorney General Greely:

> Can boards of trustees for elementary and secondary public schools districts on, or located in the vicinity of Indian reservations, refuse to re-employ tenured teachers who have not satisfied the requirements for instruction in American Indian studies, as defined in section 75-6130, R.C.M. 1947?[12]

In his opinion, Attorney General Greely considered two issues: the applicability of the Law to tenured teachers and, if applicable, the constitutional permissibility.[13] Attorney General Greely concluded that the Law did apply to all certified personnel, tenured and nontenured, and that the imposition of the Law on tenured teachers was constitutionally permissible. Therefore, his opinion provided the following summary:

> The provisions of the Indian Studies Act, section 75-6121 through 75-6132, R.C.M. 1947, are applicable to tenured teachers.[14]

UNRAVELING THE INDIAN STUDIES LAW

For the first 3 years of its existence, the Indian Studies Law barely caused a ripple in the education community. From 1973 until 1976, most teachers and districts forgot about the Law while the Master Plan was being developed. Tenured teachers thought the Law did not apply to them. Therefore, there was no mad rush to comply. However, beginning with the Attorney General's opinion in 1977, the Law began to unravel.

Delay in Implementation

The first problem encountered by the Law was the delay in implementation. The original Law was passed in 1973 with a deadline for compliance of July 1, 1979. To the Law's authors, 6 years seemed a reasonable time period for teachers to complete the requirements. However, implementing legislation (House Joint Resolution No. 60) was not adopted until 1974; the Master Plan, which laid out the requirements and implementation procedures, was not adopted until 1975 and not implemented until 1976. Although the Master Plan laid out the requirements and procedures for the Indian Studies Law, those requirements and procedures needed to be adopted in the form of administrative rules in order to enforce the intent of the Law. However, because the Master Plan was adopted by the State Board of Education (the Board of Public Education and the Board of Regents working in concert), an entity with questionable rulemaking authority, rules were not adopted until 1978, when the Board of Public Education finally decided to adopt rules that basically incorporated the procedures and guidelines recommended in the Master Plan.

Opposition by Teachers

Teachers, the group most affected by the Indian Studies Law, registered little initial opposition to the Law, even though educational organizations, such as the Montana Education Association and the Montana Federation of Teachers, held a fundamental belief that curriculum should not be legislatively mandated. In fact, these organizations worked to inform their members of the Law's requirements and how to comply with them. However, by 1976, teachers

themselves began to oppose the Law. Threatened with termination unless they complied, teachers affected by the Law resented the fact that not all teachers were covered by this Law. In addition, they resented having to pay for the courses out of their own pockets and criticized the lack of worthwhile courses. As this opposition grew, teachers began to support the repeal of the Law. The educational organizations, however, were reluctant to support repeal because they feared their opposition would be interpreted as prejudice.[15] Rather than a repeal, the educational organizations called for amendments that would include all teachers in the Law and require some state or local funding.[16] In 1977, legislation was introduced that included some of these revisions, but the legislation failed to pass.[17]

Lack of Support From Higher Education

While the Master Plan included specific provisions for the implementation of the Indian Studies Law, it was vague and rather abbreviated about funding. The implication in the Master Plan was that the costs of implementing the Master Plan would be incorporated into the Board of Regents' budget. However, as with any new program, startup money was necessary to hire the faculty to implement the Master Plan. Unfortunately, the Board of Regents neither asked for additional funding for the Native American Studies programs nor received additional funding from the Legislature. Also, Native American Studies personnel within the University System charged the Board of Regents with failure to provide information about the Indian Studies Law to those people affected by it.[18] The Board of Regents did adopt a resolution in 1977 requiring six credits in Native American Studies as a graduation requirement for all teachers. However, opposition from the education departments within the University System resulted in the recision of the resolution 1 year later.

With the approach of the 1979 legislative session, opponents to the Indian Studies Law began to lobby their legislators for its repeal, or at least its revision. Representative Carl Seifert of Polson introduced House Bill No. 219: "AN ACT TO AMEND SECTION 20-4-213, MCA, TO MAKE THE Law REQUIRING THAT CERTAIN TEACHERS OBTAIN INSTRUCTION IN AMERICAN

INDIAN STUDIES PERMISSIVE RATHER THAN MANDATORY." Under this legislation, local school districts would have the option of requiring their teachers to comply with the Indian Studies Law. It would be a local district requirement with enforcement and administration solely the responsibility of the local board of trustees. The effect of the legislation would most likely be that few, if any, school districts would require instruction in American Indian studies for their teachers.[19] Proponents of the legislation included the Montana Education Association, the Montana School Boards Association, individual school districts, and individual teachers. The proponents' arguments centered on the issue of local control of schools and the burden imposed on certain teachers by the Law.[20] Opponents to House Bill No. 219 included the Office of Public Instruction, the American Civil Liberties Union, and individuals, both Indian and non-Indian. The opponents stressed the constitutional commitment to the preservation of Indian culture. They also felt that the Law was having positive effects in a number of areas and should be continued.[21]

Supporters of the Indian Studies Law attempted to head off the attempt to water down the Law by proposing legislation that would address some of the concerns of the Law's critics. Senate Bill No. 218 and House Bill No. 880 would have reduced the number of hours required for compliance, grandfathered in tenured teachers, and extended the deadline for meeting the requirements. The bills would have also incorporated the Indian studies requirements into the graduation requirements for teachers. Both bills failed, as did attempts to amend their provisions into House Bill No. 219. The Legislature eventually passed House Bill No. 219, and it was signed into law as Chapter 458, Laws of 1979, by Governor Judge on March 28, 1979.

WHAT HAPPENED? WAS THERE A BETTER WAY?

Why did the Indian Studies Law fail? Given that hindsight is 20-20, what could have been done to better ensure its success? The Law failed for a number of reasons, all of them interrelated.

Delay in Implementation: The Law was passed in 1973, with a deadline for

compliance of July 1, 1979. However, the procedures and guidelines for implementation and compliance were not in place until mid-1976 and were not formally adopted as administrative rules until 1978. Implementation could have been quicker and smoother if the provisions of the Indian Studies Law had been adopted through the teacher certification process administered by the Board of Public Education rather than legislatively mandated.

Confusion Over to Whom the Law Applied: Because the Law read that by July 1, 1979, all school districts on or near reservations were to employ only teachers who have fulfilled the Indian studies requirement, certified, particularly tenured, teachers interpreted the Law to apply to teachers hired after July 1, 1979, not to teachers already employed in the affected districts. After Attorney General Greeley issued his opinion in 1977 that the Law included certified and tenured teachers, many teachers expressed concern that, even though they were certified to teach and had tenure in their district, they could lose their jobs if they did not comply with this new requirement.[22] Even more confusing was whether or not the Indian Studies Law applied to students preparing to be teachers. Because only teachers in certain districts were affected and teacher candidates seldom knew where they were going to teach until graduation or after, education departments seldom steered students into Native American Studies courses. Most college catalogs even failed to mention the Indian Studies Law when discussing the teacher education requirements. Much of the confusion surrounding the issue of to whom the Law applied could have been alleviated by applying the Law to all school districts; grandfathering in certified teachers; and requiring new teachers, teachers reinstating lapsed certificates, and teachers changing their class of certificate to comply with the provisions of the Law.

Lack of Funding: House Joint Resolution No. 60, which directed the Board of Public Education and the Board of Regents to devise a master plan for implementing the Indian Studies Law, stated that the plan should "provide teacher-training institutions in Montana with adequate resources to prepare teachers to understand the history, culture, sociology, and values of American

Indians as seen by Indians".[23] The Master Plan stated that the Board of Regents would include implementation for the Master Plan in its 1977 appropriations request and subsequent requests to the Legislature. A 1975 study by the Inter-Unit Committee on Native American Studies, whose purpose was to coordinate implementation of the Master Plan between the University System campuses and the Commissioner of Higher Education's Office, suggested that $153,619 was needed to simply meet the rise in expected enrollment costs generated by the Indian Studies Law; this amount did not even address the need for developing new Native American Studies courses.[24] The Legislature never provided nor did the Board of Regents ever request additional funding for the purpose of implementing the Master Plan.

Failure to Involve Teacher Organizations: The 45-member advisory committee that developed the Master Plan included three teachers. While these teachers may have been members of a teacher organization, they did not represent the organization on the advisory committee. Had teacher organizations been represented, questions regarding tenure, grandfathering, certificate renewal credits, and salary scale credits could have been addressed right at the beginning, thus avoiding much of the confusion and opposition that surfaced later in the process.

Lack of Administrative Support: While the Office of Public Instruction worked diligently to assist school districts in implementing the Indian Studies Law, support from higher education was less than adequate. Plans by the Commissioner of Higher Education to produce a brochure answering questions about the Law never came to fruition.[25] Pleas for more funding for the Native American Studies programs often fell on deaf ears.[26] The graduate schools failed to recognize the need for graduate credit for Native American Studies courses. Education departments were reluctant to direct students toward those courses because of confusion and misunderstanding as to whether or not teacher candidates were covered by the Law. The advisory committee that wrote the Master Plan did not include a representative from the Board of Regents or from the Commissioner of Higher Education. Perhaps their exclusion

from the process resulted in their failure to provide the needed support for the final product.

THE INDIAN STUDIES LAW IN 1996

It has been 17 years since the Indian Studies Law was made permissive. In that time, there have been no further changes made to the Law. Because administration of the Law is entirely the function of local boards of trustees, there is no official record of exactly how many, if any, school districts require their teachers to comply with the Law's provisions. The Office of Public Instruction encourages teachers to be more effective and have a better understanding of Indian children by sponsoring the "Effective Practice in Teaching Native American Children Institute" every summer. The teacher education programs at the public and private colleges and universities across the state have changed their requirements to include instruction in multiculturalism, of which Native American Studies is a part. However, only one teacher training program, at the University of Great Falls, specifically requires teacher candidates to complete a course in Native American Studies.

In 1972, the Montana electorate adopted a new constitution that provided for the preservation of the cultural integrity of American Indians. In 1973, the Montana Legislature passed House Bill No. 343, the "Indian Studies Law", as a way to implement the constitutional mandate. In 1979, after much confusion, misunderstanding, and criticism, the Indian Studies Law was effectively repealed. In 1996, the constitutional mandate is still in place. The watered-down Indian Studies Law is still in place. Since 1979, there have been a few attempts to "beef up" the Indian Studies Law, but they have met with failure. The question today, then, is how can the State of Montana give life to the constitutional provision calling for the protection of the cultural integrity of American Indians? The answer to that question is not simple, but it is an answer that must be given.

ENDNOTES

1. Janice Lee Midyett, "An Analysis of the Implementation of the Indian Studies Law of 1973" (M.P.A. thesis, University of Montana, 1988), p. 10.

2. Ibid., pp. 18-19.

3. "Indian Culture Master Plan," 15 December 1975, photocopy (Helena, Montana: Legislative Services Division, Committee on Indian Affairs files), p. 3.

4. Ibid.

5. Midyett, "Indian Studies Law," p. 22.

6. Ibid.

7. Ibid., p. 29.

8. "Indian Culture Master Plan," p. 5.

9. Midyett, "Indian Studies Law," p. 2.

10. Ibid., p. 3.

11. Edward Eschler, "Indian Studies Law: A Lesson in Policy Change," report submitted in partial fulfillment of the course requirements of Montana Politics 480, Section 71, 23 March 1979, photocopy (Helena, Montana: Legislative Services Division, Committee on Indian Affairs files), p. 9.

12. 37 A.G. Op. 75 (1977), p. 306.

13. Ibid., p. 307.

14. Ibid., p. 316.

15. Midyett, "Indian Studies Law," p. 52.

16. Ibid., pp. 52-53.

17. House Bill No. 463, 45th Montana Legislature, 1977.

18. Midyett, "Indian Studies Law," p. 47.

19. Eschler, "A Lesson in Policy Change," p. 10.

20. House Education Committee, Minutes of 2 February 1979, 46th Montana Legislature, 1979.

21. Ibid.

22. Midyett, "Indian Studies Law," p. 59.

23. House Joint Resolution No. 60, Laws of 1974.

24. Midyett, "Indian Studies Law," p. 60.

25. Ibid., p. 47.

26. Ibid., p. 31.

c25 6093cexa.

APPENDIX B

RESULTS OF PUBLIC HEARINGS IN

GREAT FALLS, CROW AGENCY, AND POPLAR

RESULTS OF PUBLIC HEARINGS IN GREAT FALLS, CROW AGENCY, AND POPLAR

Problems Identified:

A. Public Schools

1. Lack of Indian language, history, and culture classes in schools
2. Lack of information on Indian history and culture in textbooks
3. Far too many Indian student drop-outs in high school
4. Racism and discrimination in schools
5. Students not ready for level of education provided to them
6. Schools do not have range of options to meet students' needs
7. Absence of cultural and traditional teaching and learning
8. Public school curriculum not relevant for large numbers of Indian students; many Indian children not going to college
9. State special education block grants based on number of children in school, not on number of students who need services
10. Reservation schools not meeting cultural and traditional needs of Indian children; educators do not know how to meet needs and never ask tribes for help
11. Little involvement in schools by Indian parents because of own negative experiences with school
12. Reservation schools not providing necessary services for Indian children
13. Lack of well-defined curriculum for Indian students

B. Public School Personnel

1. Lack of training for Indian school board members
2. Lack of Indian teachers, administrators, and support staff; should reflect number of Indian students

3. Teacher tenure

4. Reservation school administrators do not know about Indian education programs

5. Difficult to attract Indian teachers to reservations

6. Non-Indian teachers will not go out into Indian communities in which they teach

7. Non-Indian teachers will not live in Indian communities and will not enroll own children in reservation schools

8. Certified personnel turnover

9. Teachers not culturally aware or sensitive

C. Teacher Education

1. Education graduates poorly prepared for diversity in classrooms

2. High ignorance of Indian issues among faculty in schools of education; no awareness of cultural perspectives, cultural practices, or various tribal systems

3. State institutions do not require any type of teacher training on Indian cultural diversity; classes offered but not required

4. Not enough Indian students graduating from teacher training programs

5. Indian students have difficulty passing National Teachers' Exam

D. Higher Education

1. Lack of coordination between K-12 and higher education; e.g., credit cap and elimination of remedial classes

2. Decrease in number of Indian students in Montana University System

3. Disparity in number of Indian faculty, staff, and administrators in postsecondary education

4. No visual reflection of Indian culture within campus climate of Montana University System

5. Inability to collect statistics on number of Indian freshmen college students who need

remedial classes

6. Indian students with inadequate skills to succeed in college

E. Funding Issues

1. Elimination of gifted and talented program

2. Erosion of Indian education positions at Office of Public Instruction and Higher Education

3. Decreases in federal funding: Impact Aid, BIA scholarships, and bilingual programs

4. State not taking responsibility for picking up federal programs that have lost funding

5. Tribal governments try to make up for lack of federal funding thus relieving state of responsibility to Indian citizens

F. Miscellaneous

1. Poor public knowledge of Indian culture

2. Alcohol and drugs on reservations

3. Lack of economic opportunities on reservations

4. Drug and alcohol abuse both in and out of school

5. Reservation social conditions, esp. unemployment

6. Failure to recognize importance of education, esp. among Indian parents and students

Solutions Identified:

A. Public Schools

1. More Indian culture classes
2. Indian cultural studies integrated throughout curriculum
3. Performance-based accreditation standards
4. More community involvement in schools
5. Review school district textbook selection procedures for all textbooks, not just history and social studies
6. Implement textbook selection guidelines
7. Review school library collections to see if they reflect Indian people in Montana
8. Indian studies programs should be integral part of accreditation requirements and school district budgets, similar to core subjects
9. More stress on vo-tech training for Indian students
10. Modify curriculums to incorporate cultural perspectives
11. Teaching of Indian history, culture, and language in schools beginning in kindergarten
12. Better communication between parents and schools and schools and communities
13. Early childhood education
14. Ungraded K-3
15. Behavioral learning centers for children with behavioral problems
16. Alternative schools and education programs
17. High school curriculum designed for full spectrum of students
18. Cultural education part of all school curriculums, not just reservation schools
19. Make school a friendly environment for Indian students
20. Change Indian students' attitudes about education and schools so they like school

21. Look at charter schools on reservations

22. Indian studies in all high schools in state

23. Address needs of at-risk students

24. Culturally relevant curriculum and mentor programs

25. Culturally appropriate curriculum and assessment tools

26. Increase cultural awareness in schools

27. Greater parental involvement in schools

28. More Indian education programs in urban schools; cultural and bilingual

29. Help Indian students identify with culture

30. More Indian students in advanced classes

31. New strategies to reduce high dropout rates for Indian students

32. Administrators and teachers more proactive in enforcing school attendance policies

B. Public School Personnel

1. More Indian teachers, counselors, administrators, and support staff

2. Better trained teachers

3. Database for Indian teachers, administrators, and school board members

4. Strong administrators, school boards, and teachers who will not tolerate racism and discrimination

5. Tribal governments to review recruitment of Indian teachers

6. Good role models because Indian students have different learning styles and cultures

7. OPI Institute for Effective Teaching of Indian Students

8. Non-Indian teachers to set higher expectations for Indian students

9. More Indians in leadership positions, esp. school trustees and state boards and

commissions

10. More resource people

11. Reservation housing for teachers so they can live among Indian people

12. Mandate Indian studies for all teachers in state

13. Better prepared reservation teachers

14. Training for school trustees in Indian studies

15. Cultural sensitivity training for certified personnel

16. Tribal specific cultural training for teachers

17. Multiculturalism training for all teachers

C. Teacher Education

1. Abandon National Teachers' Exam as tool for certifying teachers; exam is culturally biased

2. Cultural awareness training for faculty in schools of education

3. Board of Regents to review teacher training programs

D. Higher Education

1. Keep Indian fee waiver in Montana University System

2. Interaction between higher education faculty and reservations

3. Specific recruitment efforts in Montana University System for Indian students, faculty, staff, and administrators; Native American Studies programs should not be responsible for recruitment and retention

4. Montana University System more responsive to collaborative and outreach efforts with tribal colleges

5. Leadership training opportunities and encouragement to attend and stay in college for Indian students

E. Funding Issues

1. No equalization of PL-874 funds

2. Change distribution formula for federal vocational education funds; current formula discriminates against tribal colleges

3. Keep Indian specialist at Office of Public Instruction

4. Continued support for Montana Advisory Council on Indian Education

5. Funding for scholarships, esp. for Little Shell students

6. Support for Indian/Minority Achievement director at Higher Education

F. Miscellaneous

1. Training programs in racism and prejudice for all legislators

2. Review other states, esp. Minnesota

3. Early intervention before children are born

4. More training in parenting

5. Day treatment centers

6. Communications between reservation leaders and community leaders

7. Involve young Indian people in state conferences and expose them to state government

8. More Indians on state boards and employed in state agencies

9. All state officials, elected and appointed, should have basic knowledge of Montana Indian tribes

10. Indian representative on Montana School Boards Association's board

11. Office of Public Instruction advocate for parents

12. Office of Public Instruction liaison with Indian tribes

APPENDIX C

SB NO. 117/LC 0530

A BILL FOR AN ACT ENTITLED: "AN ACT DESIGNATING THE FOURTH FRIDAY IN SEPTEMBER OF EACH YEAR AS "AMERICAN INDIAN HERITAGE DAY" IN THE STATE OF MONTANA; AMENDING SECTION 20-1-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

SENATE BILL NO. 117

INTRODUCED BY NELSON

BY REQUEST OF THE COMMITTEE ON INDIAN AFFAIRS

A BILL FOR AN ACT ENTITLED: "AN ACT DESIGNATING THE FOURTH FRIDAY IN SEPTEMBER OF EACH YEAR AS "AMERICAN INDIAN HERITAGE DAY" IN THE STATE OF MONTANA; AMENDING SECTION 20-1-306, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, Article X, section 1(2), of the Montana Constitution recognizes the distinct and unique cultural heritage of American Indians and commits the state in its educational goals to the preservation of their cultural integrity; and

WHEREAS, the 1975 Legislature enacted House Joint Resolution No. 57, designating the fourth Friday in September of each year as "Native American Indian Day"; and

WHEREAS, despite the resolution, the knowledge of this important history and culture is gradually being lost to citizens of the State of Montana, to the detriment of both the American Indian and non-Indian citizens of the State of Montana; and

WHEREAS, the history and culture of American Indians are an integral part of the history of the nation and the State of Montana; and

WHEREAS, the Legislature recognizes that all Montanans have an invaluable opportunity for cultural enrichment through contact with the culture and philosophy of American Indians.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-1-306, MCA, is amended to read:

"**20-1-306. Commemorative exercises on certain days.** (1) All districts shall conduct appropriate exercises during the school day on the following commemorative days:

(a) Lincoln's Birthday (February 12);

(b) Washington's Birthday (February 22);

(c) Arbor Day (last Friday in April);

(d) Flag Day (June 14);

(e) Citizenship Day (September 17);

(f) American Indian Heritage Day (fourth Friday in September);

~~(f)~~(g) Columbus Day (October 12);

~~(g)~~(h) Pioneer Day (November 1);

~~(h)~~(i) ~~Other~~ other days designated by the legislature or governor as legal holidays.

(2) When these commemorative days fall on Saturday or Sunday, exercises may be conducted the preceding Friday."

NEW SECTION. **Section 2. Notification of tribal governments.** The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell band of Chippewa.

NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

-END-

100 copies of this public document were published at an estimated cost of $5.00 per copy, for a total cost of $500.00, which includes $500.00 for printing and $.00 for distribution.